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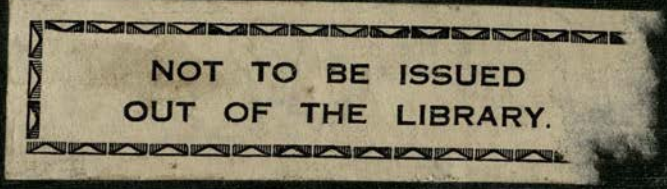
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5) India's parliament at Simla.

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III - III - 1

NATIONAL ARCHIVES OF INDIA

Second Edition considerably enlarged.

NOTES ON THE SUBJECTS

OF

SHIVAJI'S SWORD,

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Pht 1

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SHIVAJI'S PORTRAIT AND SHIVAJI'S RESIDENCE CALLED "JAVHAIR KHANA" ON SINHGHAD HILL.

CHARNI ROAD,
BOMBAY, INDIA

BOMONJEE D. PUDUMJEE.

21st March 1929.

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FOREWORD.

I hope that lovers of historical antiquities will find this brochure interesting on the much-vexed question of Shivaji's Sword.

I am indebted to Prof. Dr. S. K. Belvalkar, M. A., PH D., of Deccan College, Poona, for kindly inspecting the sword and studying the evidence set forth in the notes and expressing his opinion. My thanks are also due to Mr. Balkrishna Vinayakraoji, Vasudeoji B.A., LL.B., J. P. and Mr. Shantilal G. Tolat, B.A. for inviting my attention to certain materials on the subject.

BOMONJEE D. PUDUMJEE.

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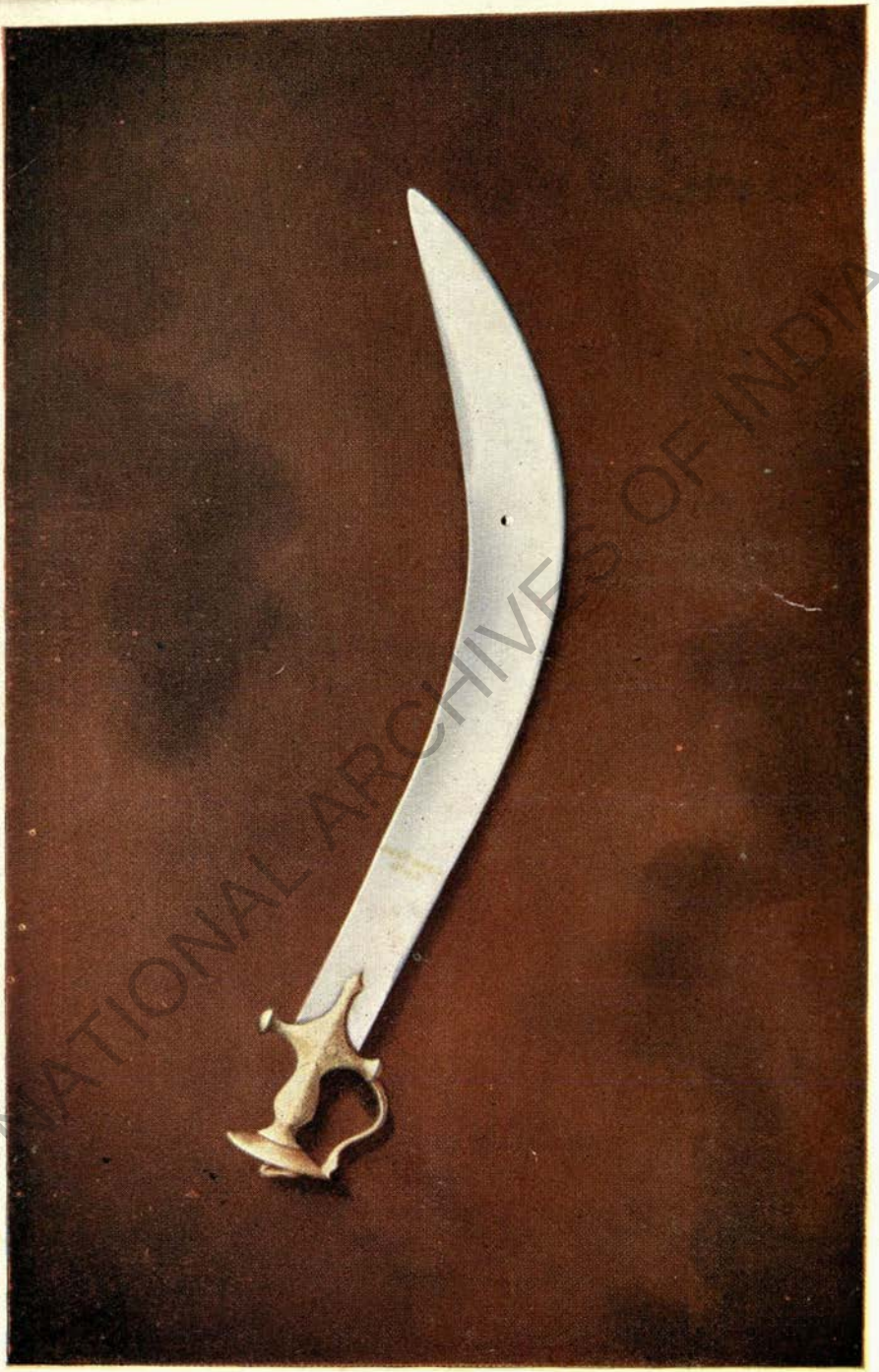

Shivaji's Sword in the possession of Khan Bahadur B. D. PUDUMJEE.

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NOTES ON THE SUBJECT OF SHIVAJI'S SWORD.

Among the articles of antiquity which have a historical significance, the Sword of Shivaji occupies an important place. Many are the claims which have been laid as to the authenticity of the sword of this veteran Soldier-King of the Marathas. It is said to be at Satara and a description of the same is given by Mr. Pandurang Martand Chandorker, in the journal of the Bharat Itihas Sanshodhan Mandal (Shake 1840 *i. e.* 1918 A. D.) who made a tour of the locality in search of historical materials in 1917. He states that on either side of the throne at Satara are two swords one of them being an ordinary sword and the other the famous 8-Shri Bhowani Sword. This latter is on the right hand side of the throne. It is enclosed in red cloth, and the lower end of the scabbard has a richly studded encasement, which has 117 small rubies, 12 diamonds and 2 emeralds. The hilt is gold enamel work and is 2 cubits and I span (as measured by the hand of Mr. Chandorkar). From the hilt down to a length of $1\frac{1}{3}$ cubits the blade is single-edged and lower down double-edged. A

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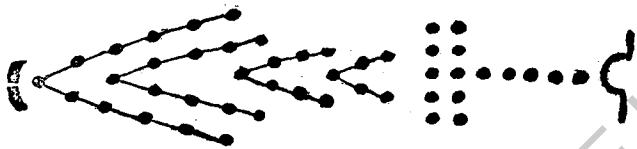
short distance from the hilt on the broad blade the following figures and letters are engraved.



सरकार राजा शाहू छत्रपति काद + + +

CA CA CA

As the engraving is shallow and the sword used to be constantly rubbed for cleaning, the lettering is indistinct and the three letters after "काद" have disappeared. The lettering viz. "सरकार राजा शाहु छत्रपति काद".. (Sirkar Raja Shahu Chatrapati Kad) seem to indicate that it was not the original "Bhowani" sword of Shivaji; but that Shahu Maharaj, Shivaji's grandson, had his own name engraved on his own sword. This would naturally be the most reasonable conclusion. At any rate one thing is certain that the sword called "Bhowani" has not yet been irrefutably identified. There is a belief in Satara that a sight of the sword causes safe delivery of a woman in labour.

There was an idea that this Bhowani Talwar had been deposited in the British Museum, but a reply received by Mr. V. L. Bhave in reply to a specific enquiry on the point finally negatives the same

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The following is a copy of the reply received from the Record-Keeper, British Museum:—

Department of British & Mediaeval
Antiquities & Ethnology,
British Museum, London, W. C.
24th March 1925.

V. L. Bhave Esqr.,
Thana, near Bombay, India.

Dear Sir,

We do not possess the original "Tiger-Claw" or Sword of Shivaji in the British Museum.

You have quoted the label correctly.

Yours faithfully,
(Sd.) C. Hercules,
Record Keeper.

The foregoing letter has been printed in the Journal of the Bharat Itihas Sanshodhan Mandal of Shake 1837 (A. D. 1915) page 91.

Another sword in connection with Shivaji has been in the possession of Khan Bahadur Bomonji D. Pudumjee of Poona, see illustration. It was bought many years ago at an auction sale in Poona. It was bought as an old curio having then no visible indication of its being Shivaji's sword. Its condition was very rusty and the lettering and inscription on the blade were very indistinct and illegible. Some

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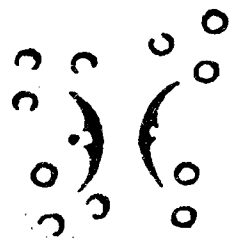
years later it was entrusted by its owner in 1912 for cleaning to Mr. D. P. Moos of the firm of "The Indian & Oriental Armour," well known dealers in old arms and armour, then carrying on their business in Meadow Street, Bombay. On removing the rust off the blade Mr. Moos discovered the following letters on the blade inlaid in gold in "Devanagari" characters:

छत्रपति महाराजा
शीवाजी

i. e. Chhatrapati Maharaja Shivaji and on the other side of the blade were found marks stamped as under:—



By a letter dated 12th February 1912, *vide* page 14, Mr. Moos declares it to be his opinion that the sword given to him for cleaning is a genuine sword of Shivaji. Vide illustration. It is a "tegha" sword

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with a broad curved blade which is slightly concave in the middle and is made of flexible steel. It is single-edged and higher up double-edged upto a length of 9 inches from its point. The length of the blade measured along the middle of its curve from its point to the hilt is 2 ft. $4\frac{1}{2}$ inches. The tang of the sword is $2\frac{1}{8}$ inches wide. The blade is broader higher up, the maximum width being nearly 3 inches. The hilt of the sword is beautifully enchased with tiny gold flowers. Mr. Ghulam Mohiudden Master of the firm of "The Indian Armour House" another well-known dealer and expert in ancient arms and armour is of the same opinion as Mr. Moos. Vide page 16. Mr. Moos has been an expert of long standing in old Indian and Oriental arms and armour whose knowledge and experience were utilised in revising the catalogue of the famous Wallace Collection in London. His services in connection with the catalogue were duly acknowledged by Sir Guy Francis Laking in the preface to the catalogue and also by the Board of Trustees of the Wallace Collection in their letter dated 17th October 1927 for a copy of which *vide* page 15. Mr. Moos' services were also requisitioned by the late Sir Rutton J. Tata, Kt., in arranging and cataloguing his collection of old Indian and Oriental Arms which was then located in his mansion "York House" in London. A reference may be

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made to Mr. Moos on the subject of the sword at Messrs. Curzon & Co., Waterloo Mansion, Apollo Bunder, Bombay. It would not be out of place here to give a brief description of old Indian swords which present a close similarity to the characteristics of this sword of Shivaji. The Hon'ble Wilbraham Egerton, M. A., M. P., (now Lord Egerton of Tatton) says in his "Illustrated Hand-book of Indian Arms":—

"The most valuable swords are those which have been made by celebrated armourers like Asad Ullah and his pupil Zaman of Isphan, and such is the esteem in which the fine varieties of watering are held that they are frequently without any ornament except the inscription of the maker's name, or that of the owner* if he be of distinguished birth, or a verse from the Koran. There are also marks which were taken by different makers such as a flower-vase, umbrella &ca. It was not however the best sword that was most adorned. A sword was sent

* Compare this with the name of Shivaji on the sword in question. Compare this with the marks stamped on Shivaji's sword in question.

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by the King of Kabul to the Governor-General which had once belonged to Tamurlane and had been taken from Isphan by the Afghans; it had no ornament except some gold about the hilt and an embossed gilt sheathing about 6 or 7 inches up the scabbard. The use of talismanic signs§ on arms is frequent."

§ Compare this with the auspicious emblem of the crescent moon stamped on the blade of this sword of Shivaji.

"Postans states in his "Personal Observations in Sind:" "The Amirs have agents in Persia, Turkey, and Palestine for the purchase of swords and gun-barrels and they possess a more valuable collection than is probably to be met with elsewhere."

"I have had in my hand" says Burnes in his description of his "Visit to the Court of Scinde" "a plain unornamented blade which had cost them half a lac of Rupees. They estimate swords by their age, and watering or temper. One presented to me bears the date 1708 and was valued in Scinde at 2,000 Rupees."

How very valuable the blades of some of the swords of Indian Kings in olden times used to be may be guessed from the above records.

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The writer has happened to come across the facsimile of Shivaji's seal illustrated at page 513 in Major Basu's "Story of Satara," reading as under:—

प्रतिपच्चंद्रलेखेव वर्द्धिष्णु विश्ववंदिता शाहसुनो शिवरसौष। मुद्राभद्राय राजते।

The meaning being: "Like the increase of the new moon from the first day, so all the world obey and worship the seal of Shivaji Raja, the son of Shahji Raja." Comparing this inscription on the seal with the marks on the blade of the sword (vide page 4), one cannot resist the inevitable conclusion that the marks on the sword of the two crescent moons,—one facing the East and other the West,—symbolize the prosperity of Shivaji's rule from the East to the West. The marks of the whole, ¾ and half circles, apparently representing the different phases of the moon, which literally correspond with the meaning of the inscription on the seal, strongly point to the conclusion that the sword cannot but be Shivaji's. What the marks of the crescent moons,—one facing the East and the other the West—signify, can, moreover, be gathered from the statement of no less an authority than Shivaji's son Sambhaji. They denote the extension of Shivaji's power from the East to the West. For he gives us an exact idea of his majestic father's

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empire as stretching from the East to the West in his book "Budhabhusana," published by the Bhandarkar Oriental Research Institute of Poona, and edited by Prof. Velankar of Wilson College, Bombay. Let us see what Sambhaji says:—

आपूर्वाचलपश्चिमाम्बुधियथाप्यासेतुशीताचलम्
निर्जित्यावनीमण्डल च करदीकृत्याखिलान्भूमिपान्।
श्रौतं धर्ममवाप्य सद्भिरुदितं राज्याभिषेके परम्
छत्रादैर्नृपलक्षणैरनुदिनं सिंहासने राजते ॥१२॥

It means "He conquered the whole of the earth from the Eastern mountain to the Western Ocean, and from the Setu (Adam's Bridge) to the mountain of cold (*i.e.* the Himalayas) and made all princes pay tribute to him, Having learnt the duties prescribed by the Shrutis, declared to him by the learned, he shines, day by day on his throne, after the coronation ceremony, by means of such symbols of royalty as the Chhatra etc."

Sir Richard Burton in his well-known work "The Book of the Sword" (Chatto and Windus 1884) writes in describing Swords at page 123:—

"When the back or base is flat this is the Persian and Kharasani, vulgarly called the

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'Damascus blade.' In the shapes (Nos. 5 & 7*) the two sides are cut away to a flat surface, and represent the Talwar of India". At page 142 Sir Richard states: "The exemplar of the curved blade is the so–called 'Damascus' sabre dating probably from the early days of El Islam (seventh century), when Eastern armies were chiefly composed of Bedwai horsemen."

* As illustrated in the book.

In his new edition published by W.H.Allen & Coy Ld, 1896 the author the Rt. Hon'ble Lord Egerton of Tatton M.A., states as follows at page 117 with reference to illustration 527 in describing the Sword of the Marathas:—

Entitled "A description of Indian and Oriental Armour illustrated from the Collection formerly in the India Office and now exhibited at South Kensington, and the Author's Private Collection."

"528. Sword; slightly incurved, one-edged blade of dark tinted Damascus steel; hilt with knuckle-guard of steel damascened with gold; gold tassel pendent from pommel; green velvet sheath. Haidarabad, Deccan. (Fig 24, No. 528)" It will thus be seen also from Lord Egerton's descripton that the sword illustrated in this brochure tallies with the above description and therefore it is a genuine Maratha sword; and the name of Shivaji on the blade fixes its ownership.

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As a further proof as to the shape of the sword of Shivaji viz, that it had a curved blade, what evidence can be more conclusive than Shivaji's own description of his sword to be found in his letter to Raja Jaysinh. The last two paragraphs of Shivaji's letter as translated by Mr. N. H. Pandia M. A., LL. B., into English and published by the Shivaji Tercentenary Celebration Committee in the volume entitled "Shivaji Souvenir" read as under:—

"90. Or if this letter does not appeal to thee "then indeed I am ready with my sword to deal, "with thy army.

"91, Tomorrow, the moment the sun shall "conceal his face behind the evening cloud the "crescent moon of my sword shall flash forth. "That is all, God be with thee' It is obvious that by the crescent moon Shivaji means the curved blade of his sword or the emblem of the crescent moon stamped on the blade of his sword.

In the opinion of the writer the marks of the crescent moon which has been an emblem also of Mahomedan coutries denote the prosperity of Shivaji's Kingdom.

"The Satara Gazeteer" by Sir James Campbell (1884) states at page 238: "The sword of

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Afzulkhan and Shivaji's favourite sword "Bhawani passed to the Moghals on the capture of Sambhaji in 1690. They were restored by Aurangzeb to Shahu in 1707 and till 1827 remained a valued trophy in the armoury of Shivaji's descendants.' From this it will be clear that the lost sword of Shivaji came back to the Deccan and according to Sir James Campbell could be traced so far back as 1827. But our investigations as set forth above give negative evidence as to the genuineness of the socalled Shivaji's sword either at Satara or in the British Museum. By a process of exclusion, therefore, the inference in favour of the present sword is overwhelming.

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The opinion of His Holiness Shri Shankaracharya Jagadguru Dr. Kurtakoti, Ph. D. of Karvir Peetha.

Khan Bahadur B. D. Padamji submitted to His Holiness Shri Shankaracharya of Karvir Peetha (Dr. Kurtakoti, Ph. D.) the credentials of the valuable historic relics that he possesses, *viz*: Shri Shivaji's Sword, the Bhawani Talwar, an oil painting of Shivaji painted by a contemporary artist probably a European and the residence of Shivaji at Sinhagad.

Considering all evidence there seems to be no doubt that the sword, the Khan Bahadur has, once belonged to the Founder of Maratha Empire. There is no motive for men having no historic sense and taste for archaeology from whom the sword was purchased to forge the inscription on a material not available during the last two centuries, exact to the method of writing in vogue in Shivaji's time. Nor was it known as Shivaji's Sword when it changed hands. That Mr. Moos is no small man in his knowledge of ancient swords is evidenced by the letter he has received from the Trustees of the Wallace Collection showing that his informed labours were useful and valued there. Mr. Moos' letter of the 12th Feb. 1912 to the Khan Bahadur is an expert's evidence in support of His Holiness' opinion formed barely on the sword itself.

His Holiness' suggestion to Khan Bahadur B. D. Padamji in connection with the picture is that he should send its copies to different Art Societies in Europe and ascertain the probability of the nationality of the painter and then trace the history of the painter. Anyhow His Holiness has no doubts as to the genuineness of the painting. The suggestion to

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circulate the painting of Shivaji and his attendants is easy to make but Khan Bahadur Padamji will have to consult artists themselves as to how it can be carried out, because the original is simply regal and must be seen at first hand to be enjoyed and appreciated.

There is another historical treasure with Khan Bahadur Padamji. It is a brass tray depicting an interesting episode in Shivaji's life. Shivaji's likeness is embossed on it with a lady standing in front of him, obviously a prisoner of war, with her captor and two other officers behind her. The lady is evidently the beautiful daughter-in-law of Aurangzebe's governor of Kalyan mentioned in Maratha history. Underneath them are the figures 1664 in Nagari characters, and above them are the figures 1, 2, 3, 4, 5, 6, 7 and 8 also in Nagari characters. There are different images around Shivaji and the damsel. It is for research students of Maratha history and archaeologists to determine the age of the plate. I am glad that Khan Bahadur Padamji accepted my suggestion of inviting researches on it of the students of history and archaeology.

For forming an opinion of the alleged residence of Shivaji more materials are wanted.

His Holiness congratulates Khan Bahadur B. D. Padamji for possessing these priceless treasures and urges that he will not sell them to non-Indian purchasers.

By the Command
of His Holiness,
G. K. HARKARE,
Secretary.

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PROF. DR. S. K. BELVALKAR'S OPINION.

Professor Dr. S. K. Belvalkar., M. A., Ph D., Professor of Sanscrit in the Deccan College, Poona, and Secretary, Bhandarkar Oriental Institute, Poona, has favoured the writer with his opinion as follows:—

> "I have seen the sword brought over by Mr. B. D. Pudumji to the Bhandarkar Oriental Research Institute. The sword seems to be prima facie an ancient weapon and the evidence set forth in the 'Notes" raises a fair presumption about its being one of Shivaji's Swords. The lettering of the inscription on the blade of the sword is really old, as is proved by the fact that the first "Nagari" letter छ (chha) in the word "Chhatrapati" is written not in the modern Maharashtra style, but in the style in which we meet the letter in Mss. about 150 or 200 years old.
>
> "It is to be remembered of course that Shivaji must have possessed many swords bearing his own name, and what should seem surprising is not that one of the sword has at last come to light, but that others should not have been discovered hitherto."
>
> (Sd.) S. K. Belvalkar.

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THE INDIAN & ORIENTAL ARMOUR

Proprietor: Mr. D. P. Moos,

Medow Street, Fort,

Bombay, 12th February 1912.

To,

Khan Bahadur B. D. Pudumji.

Dear Sir,

You will I am sure, be surprised to learn that after cleaning your sword I have discovered letters inlaid in the blade in Nagari characters in gold *viz* " Chatarpati Maharaja Shivaji " and marks stamped on the other side of the blade showing the crescent moon and circles.

The blade is made of very rare quality of "Mugrib" steel. I have no doubt that it is a genuine old sword of Shivaji considering the quality of the steel, the " Taga " shape of the blade which was a characteristic of Maharatha swords and the lettering which I consider to be of an old type and the "Tahanashah" work of the inlaying of letters in steel the art of which is practically extinct.

The sword is now ready cleaned. Please to call for it any time convenient to you.

Yours faithfully,

(Sd.) D. P. Moos.

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Mayfair 3020

The Wallace Collection
Hertford House,
Manchester Square, W,
31st October, 1913.

Dear Mr. Moos,

By good fortune you happened to visit the Wallace Collection when the Oriental Arms and Armour had been re-arranged and catalogued by Mr. Laking, but while the catalogue was still under correction. In the most generous way you placed your special knowledge at the disposal of the Trustees and of Mr. Laking. You devoted considerable time to the examination of the objects and by the incorporation of your notes the catalogue has reached a higher standard of accuracy than would have been otherwise possible in view of the scanty European Literatrue on the subject. Due acknowledgment of these services will be made in the preface but the Trustees wish to associate themselves now with Mr. Laking in thanking you most cordially for the substantial aid you have given him.

Yours faithfully,
(Sd.) D. S. MacCall.

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16

INDIAN ARMOUR HOUSE

Ghulam Mohiudden Master
Curios Merchant.
57, Meadows Street, Fort,
Bombay, 12 August 1928.

Khan Bahadur
B. D. Pudamjee, Esq.

Dear Sir,

I hear that you intend to sell your old sword. If so, I shall thank you to quote your lowest price for the same. I hope you remember my having spoken about the sword to the late Sir Rutton J. Tata who had bought from me a number of old Indian swords and other arms at handsome prices about four years before his death, but you were then unwilling to part with it for any price. You lost a good opportunity then but it is still possible you may succeed in obtaining a good price if you happen to come across a Collector of historical antiquities who can appreciate the value of the sword which I believe to be a genuine old weapon probably of Shivaji considering its Maghrib Khamir and other characteristics.

Requesting the favour of an early reply.

(Sd.) (In Persian)

i. e. Ghulam Mohiudden Master.

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Extract from "The Indian National Herald" of 3rd January 1929:—

SHIVAJI'S SWORD FOUND AT LAST!

(By S. G. Tolat, B.A.)

The name of Shivaji is one to conjure with, not only among the people of Maharashtra but also among the vast and variegated multitude that goes to make up India. The heroic deeds of this great statesman and warrior have been immortalised in numberless lays and songs.

It was only last year that all India celebrated with due eclat the Tercentenary of Shivaji and it was only a few months back that Sir Leslie Wilson unveiled the magnificent equestrian statue of this National Hero.

What news more pleasant can be given at this psychological juncture than the announcement of the fact that Shivaji's sword has been found at last ? For many are the claims which have been laid as to the authenticity of the sword of this great Soldier-King of the Marathas. Every schoolboy knows that he possessed a sword called "Bhawani". The Muse of History and legends have woven many an interesting tale around its name. It was supposed to be at Satara, but historical researches go to prove that the sword at Satara is not Shivaji's. As a matter of fact it belonged to Shahu. The very name of Shahu is inscribed upon the blade in Devnagari characters. Again it was supposed to be at the British Museum. This conjecture also did not stand on "terra firma," for, in reply to a specific enquiry on the point, the Record Keeper at the British Museum wrote as follows in 1925: "We do not possess the original "tiger claw" or the Sword of Shivaji in the British Museum."

We may at this stage draw the readers' attention to a brilliant article in the "Shivaji Souvenir" published by the Shivaji Tercentenary Celebrations Committee, in

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which the writer has the ingenuity of inviting " Shivaji " in imagination to be present at the celebrations in honour of this great work, and had the honour of interviewing (of course in imagination) on many a knotty problem connected with his name.

With regard to the sword, the phantom of Shivaji replied " inter alia "..From that day onwards, the sword which I reverently named after my tutelary deity ' Bhawani ' always accompanied me..... I am told that the sword is not at Satara, but I am afraid that I cannot verify it until I can see it to identify it."

So the fanciful flight of this writer's imagnation gives the Satara sword what it deserves. But to return to our theme. The question naturally presents itself, Where could be found the sword of Shivaji ? What follows will furnish a satisfactory solution of this question.

Antiquaries and especially those devoted to the cult of Shivaji should take their hats off to Khan Bahadur Bomonjee D. Pudumji for having brought to light the sword of Shivaji. A brochure entitled " Notes on the subject of Shivaji's Sword," written and published by him sheds a flood of light on the identity of thes word of Shivaji which he has the honour to possess. Besides experts' opinions the brochure contains sufficient material evidence to show that the present sword is the genuine weapon of Shivaji. The very name of Chhatrapati Maharaja Shivaji, inlaid in gold on the blade in Devnagari characters—an inscription which is pronounced to be ancient by no less an authority than Prof. Dr. S. K. Belvelkar, M.A., Ph.D., and the fact that the marks of Shivaji's favourite emblem of the crescent moon are stamped on the other side of the blade are sufficient in themselves to prove that the sword in question was Shivaji's favourite weapon. For aught we know it may be the " Bhawani " Sword.

The tradition is that the " Bhawani " was presented to Shivaji by the Goddess Bhawani with which to fight his battles. This reminds one of the parallel story about the sword of King Arthur, called " Excalibur "

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and sung by Tennyson in his " Morte d'Arthur." It was said to have been presented to King Arthur " by the Lovely Maiden of the Lake " for the same purpose. The evidence set forth in Mr. Pudumji's Notes is abundant and reliable and leaves no room for doubt that the present sword is Shivaji's. It is a matter for congratulation that the much-vexed question of Shivaji's sword has at last been solved.

"*The Indian National Herald*" *of 15th January 1929* :—

EDITORIAL.

SHIVAJI'S SWORD.

The discovery of what, by all documentary evidence and the testimony of experts in ancient Indian arms and armour, is most probably the original " Bhawani Talwar " or the famous sword of Shivaji, must evoke widespread interest, not only among students of Maratha History, but also in the nation at large which honours his memory as that of India's bravest and greatest soldier, as well as one of its ablest administrators and a personality of the loftiest character. Few among the general public of this country have suspected the fact that, among the last relics of Shivaji, the Bhavani Talwar has been one. They have known the fact that the great Maratha King's " wagh nukh " or tiger claw weapon and coat of steel are still in existence, and they have taken it for granted that the famous sword, which tradition says was presented to him by his tutelary Goddess Bhavani, is also among the relics zealously treasured up by either the descendants of Shivaji at Satara and Kolhapur or the collectors of Maratha antiquities like Mr. Purshottam Vishram Mavji or the late Mr. Parasnis of Satara. From a perusal of the brochure which Khan Bahadur B. D. Padmaji of Poona has just published, it would, however, appear that neither in the British Museum nor in the Satara collection is the

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genuine Bhavani Talwar to be found. The sword which is beside the throne of Shivaji at Satara and which has hitherto been believed by some to be the famous sword of Shivaji, has, on close scrutiny, been found to be not Shivaji's sword at all, but one which most probably belonged to his grandson, Shahu Maharaja, who was a prisoner in the hands of Aurangzeb in his younger days. In fact, the name of this Maharaja is clearly engraved on the blade of the sword in Devanagari characters. So the possibility of this sword being Shivaji's sword must be ruled out of account.

The general shape, the quality of the steel, and the engraving in the blade of the sword which has come into the possession of Khan Bahadur Padamji under the romantic circumstances described in this journal a few days ago when a photograph of the weapon was also published, all go to strengthen the conclusion that this sword is really the genuine Bhavani Talwar of Shivaji. Shivaji's name is clearly engraved on the blade in Devanagari characters, which such a cautious student of history as Dr. Belvelkar, of the Bhandarker oriental Institute, declares to be "really old, as is proved by the fact that the first Nagari letter (chha) in the word Chatrapathi is written not in the modern Maharashtra style, but in the style in which we meet the letter in MSS. about 150 or 200 years old." We have it from the Satara Gazetteer of Sir James Campbell (1884) that "the Sword of Afzulkhan and Shivaji's Sword Bhavani passed to the Moghuls on the capture of Sambhaji in 1690. They were restored by Aurangazeb to Sahu in 1707 and till 1827 remained a valued trophy in the armoury of Shivaji's descendants." It is obvious from this that the sword could be traced so far back as 1827. Since it is not to be found in any known collection of relics of Shivaji's reign, the question arises what became of the sword? The inference is not unnatural that the weapon was either stolen or lost somehow and that it got mixed up with other old and costly swords in the collection of curio hunters, till it attracted the fancy of Khan Bahadur Padamji.

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Mr. Padamji was unaware of its identity and supreme value till his attention was drawn to the fact by Mr. D. P. Moos, an acknowledged authority on ancient arms and armour to whom the weapon had been given by Mr. Padamji for cleaning. If the sword in Mr. Padamji's possession is really the historical weapon which Shivaji prized so much and always carried with him, then the discovery is of first-rate importance and no time should be lost in acquiring and preserving such a relic of national importance for the nation. A committee of experts should first investigate thoroughly the question, whether the weapon is really the famous Bhavani Talwar. When the fact is established beyond doubt, it behoves either the Shivaji Tercentenary Memorial Committee or one of the Princes of Western India, to arrange for its purchases for the nation. The country should see to it that this historical treasure does not go out of India. Mr. Padamji has also been fortunate in lighting upon an old oil painting of Shivaji and two of his famous generals, Tanaji Malusare and Baji Fasalker. A close scrutiny of the picture leads to a strong suspicion that it is either a contemporary portrait of Shivaji or one painted shortly after his death. This art treasure too, deserves to be acquired and preserved for the nation like the sword. We trust that all interested in keeping green the illustrious memory of the founder of the Maratha Empire will take early steps towards this end.

From "The Illustrated Weekly of India" of April 1929 (Published by "The Times of India" Press.)

SHIVAJI AND HIS SWORDS.

By H. George Franes.

WHERE is the famous Bhawani Sword of Shivaji? Will the historic relic ever be definitely located?

Now that the All-India Shivaji Memorial Committee are hard at work endeavouring to get a Memorial Hall built; now that there is a general awakening of interest

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in the life and doings of the great Maratha hero; now that scholars are debating and discussing (and quarrelling over) the real birth-date of this remarkable man whose essential life details are at once both well-known and little-known, surely it is time a definite effort was made to discover the whereabouts of that talismanic weapon which has gone down to history as the Bhawani sword.

There are some scholars who say it is in England; and there are others who declare it to be at Satara; whereas the indications are that there is no definite information, which would prove either section to be correct. In fact, there does not seem any doubt about the fact that the sword which is now at Satara, kept in the ancient temple family of the Bhosles, is certainly not the Bhawani sword, even though it resembles in many respects, the appearance and size and character of Shivaji's favourite weapon. But it really gives away its own secret by the inscription on it which reads "Sarkar Raja Shahu Chhatrapati Kad—," and which most certainly seems to suggest that it belonged to Shahu Maharaj, the grandson of Shivaji. It certainly is a most regal sword, well-bejewelled and richly scabbarded, but there is very great room for doubt as to its being the Bhawani sword.

Then again, in order to ascertain whether the sword of Shivaji was, as declared by some students, in the British Museum, a letter was sent to the Record Keeper there, who replied most unequivocally that neither the sword nor the original tiger's claw was there.

Those who are now so enthusiastic about Shivaji and his times could do worse in the cause of history than starting out on a definite and well-organised campaign to find out where the famous Bhawani sword is, and whether it is possible to secure it for the Memorial Hall.

AUCTION SALE FIND.

But in the meantime, another interesting problem has cropped up. At an auction sale in Poona many years

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ago, an old rusty sword was purchased by a well-known collector, as an ordinary curio. When the weapon was sent to be cleaned some years later, to the amazement of the owner it was found, that on one side of the blade was an inscription in Devanagari characters inlaid in gold, "Chhatrapati Maharaja Shivaji", and on the other side was punched an emblem, consisting of two crescent moons and a number of circles and smaller crescent moons. These two inscriptions are reproduced herewith. The sword itself was found on further examination to be made of a very rare quality of flexible Mugrib steel. It was of Taga shape, single-edged up to nine inches from its point when it became double-edged, was 2 feet 4½ inches long and had a maximum width of nearly three inches. The hilt was beautifully chased with tiny gold flowers.

A careful investigation of the conclusions to which a student can come when considering all these details cannot be undertaken here, although it should perhaps be added that there seems to be considerable proof that this sword is, at least, of Shivaji's period, and that it is very possibly one of the swords actually used by the great Founder of the Maratha Empire. It is also clear that it also conforms in many respects to the way in which ancient swords of kings were named and inlaid whilst the crescent moons and the strange grouping of whole, three-quarter and half circles all goes to support the theory that it belonged to Shivaji, who is declared to have used the symbol of the moon as an illustration of his own advance of empire. There is no doubt that the characters in which the inscription is written are the same as those found in manuscripts written in the Maharashtra well over two centuries ago, and that the message sent to Raja Jaysingh by Shivaji threatening that "tomorrow the crescent moon of my sword shall flash forth" adds considerable interest to the idea that this is a sword used and beloved by the great Maratha.

More than this should not, perhaps, be said at this stage, for nothing is more dangerous than to utter certainties on such a question at such an early stage. But

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the sword now in the possession of this enthusiastic collector at least seems to deserve more than passing notice, although it might be worth suggesting that experts in the different lines of research might well set about answering the following questions which, amongst others, arise as a result of a consideration of the claims of the owner of this sword :—

AN AUTOGRAPH?

1. Was it the regular practice for kings and warriors to autograph their swords ?
2. Is the lettering and the phrasing of the words on the sword similar to the general practice adopted in Shivaji's time ?
3. Was it possible to inlay letters of gold on a fine steel blade after it had been tempered and watered ? An answer to this question might well fix the date of the sword.
4. Why are the letters inlaid in gold and the moon-emblem only stamped on the blade ?
5. Is there any definite significance in the peculiar character and placing of the stamped circles and crescents ?
6. Would Shivaji have put his name on his sword after he was crowned king and adopted the title " "Chhatrapati Maharaja " ?
7. Do the crescent moons signify this to be a sword captured from Moslems by Shivaji and then turned to his own use by being autographed ?

Information or correspondence on these important and interesting points would go a long way towards solving what at the present time is a most un-settled and intricate problem ; but in view of the very great

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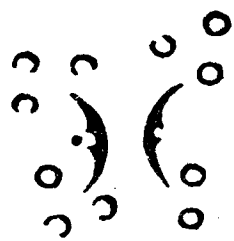
evidence in favour of this being, at least, one of the swords of Shivaji, it should attract considerable attention in the absence of any other weapon definitely known to have been the property of or used by the greatest warrior Maharastra and India has ever known.

The sword above appears to have strongest claim to being the Bhawani sword the favourite weapon of Shivaji the Mahratta warrior.. The original is being sought after eagerly for the projected Shivaji memorial hall.—

छत्रपति महाराजा
शिवाजी

The inscription in Devagari on the sword which is the centre of much controversy. Translated, it reads "Chhatrapati Maharaja Shivaji."

The curious emblem of two half-moons on the sword is given below.



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From "The Indian Daily Mail" of 10th January 1929:—

SHIVAJI'S SWORD.

At Present in the Custody of Mr. B. D. Pudumji.

Among the articles of antiquity which have a historical significance, the Sword of Shivaji occupies an important place. Many are the claims which have been laid as to the authenticity of the sword of this veteran Soldier-King of the Marathas. It is said to be at Satara and a description of the same is given by Mr. Pandurang Martand Chandorkar, in the journal of the Bharat Itihasa Shanshodhan Mandal (Shake 1840, *i.e.*, 1918 A.D.) who made a tour of the locality in search of historical materials in 1917. He states that on either side of the throne of Shivaji at Satara are two swords one of them being an ordinary sword and the other the famous 8—Shri Bhowani Sword. This latter is on the right hand side of the throne. It is enclosed in red cloth, and the lower end of the scabbard has a richly studded encasement, which has 117 small rubies, 12 diamonds and 2 emeralds. The hilt is gold enamel work and is 2 cubits and 1 span (as measured by the hand of Mr. Chandorkar).

One thing in this connection is certain that the sword called "Bhowani" has not yet been irrefutably identified. There is a belief in Satara that a sight of the sword causes safe delivery of a woman in labour.

There was an idea that this Bhowani Talwar has been deposited in the British Museum, but a reply received by Mr. V. L. Bhave in reply to specific enquiry on the point finally negatives the same.

Another sword in connection with Shivaji has been in the possession of Khan Bahadur Bomanji D. Pudumjee of Poona. It was bought many years ago at an auction sale in Poona. It was bought as an old curio having then no visible indication of its being Shivaji's sword.

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Its condition was very rusty and the lettering and inscription on the blade were very indistinct and illegible. Some years later it was entrusted by its owner in 1912 for cleaning to Mr. D. P. Moos of the firm of "The Indian and Oriental Armour," well known dealers in old arms and armour, then carrying on their business in Meadow Street, Bombay. On removing the rust off the blade Mr. Moos discovered on the blade inlaid in gold in "Devanagari" characters the letters "Chatrapati Maharaja Shivaji" and on the other side of the blade were found some marks.

Professor Belvalkar's Opinion.

Professor Dr. S. K. Belvarkar, M.A., Ph.D., Professor of Sunskrit in the Deccan College, Poona, and Secretary, Bhandarkar Oriental Institute, Poona, has favoured the writer with his opinion as follows :—

> "I have seen the sword brought over by Mr. B. D. Pudumji to the Bhandarkar Oriental Research Institute. The sword seems to be 'prima facie' an ancient weapon and the evidence set forth in the "Notes" raises a fair presumption about its being one of Shivaji's Swords. The lettering of the inscription on the blade of the sword is really old, as is proved by the fact that the first Nagari letter (chha) in the word Chatrapati is written not in the modern Maharashtra style, but in the style in which we meet the letter in Mss. about 150 or 200 years old It is to be remembered of course that Shivaji must have possessed many swords bearing his own name, and what should seem surprising is not that one of the swords has at last come to light, but that others should not have been discovered hitherto."

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Extract from "The Hindu Illustrated Weekly" of Madras Ser, No. 4 of 27th January 1929.

SHIVAJI'S FAMOUS SWORD.

Story of the discovery of "Bhawani."

Quite a sensation has been created in Western India by the discovery of an oldish looking sword which is believed to be the genuine "Bhavani Talwar" or the famous sword of Shivaji the Maratha King, worn by him always on his person and especially on the memorable occasion of his meeting with Afzal Khan, the Bijapur General.

It was till recently imagined that the "Bhawani Talvar" was either in the British Museum or at Satara among the collections of articles of Maratha antiquity, but enquiries at both places have conclusively proved that Shivaji's famous sword is not included in these collections.

The present sword, which is in the possession of Khan Bahadur B. D. Pudumji of Poona and which he purchased at an auction sale years ago, disclosed, on the removal of the rust, the letters "Chhatrapati Maharaja Shivaji" in Devanagari characters inlaid in gold on one side of the blade a little above the hilt and marks of the crescent and full moon, which are emblems of prosperity, on the reverse side. The length of the blade measured along the middle of the curve from its point to the hilt is 2 ft. $4\frac{1}{2}$ ins. while the maximum breadth is 3 inches.

The hilt is beautifully enchased with tiny gold flowers It is a "Tegha" sword with a broad curve blade which is slightly concave in the middle and is made of flexible "Mugrib" steel.

Documentary evidence as well as the opinion of experts in Oriental arms and armour to whom the sword

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was shown by Mr. Pudumji go to show that it is most probably, if not almost certainly, Shivaji's world-famed sword which legend says, was presented to him by his patron goddess Bhawani.

New Portrait of Shivaji.

Khan Bahadur Pudumji is also the happy possessor of an old oil painting containing what is surmised to be a contemporary portrait of Shivaji, which is reproduced on our cover. The picture which is 3½ ft. by 4 ft. represents Shivaji and two of his trusted generals on horse back reconnoitring at the foot of a fort. The generals are believed to be Baji Fasalkar (right) and Tanaji Malusare (left).

The colour of Shivaji's horse is bay, that of Fasalkar's horse more chestnut than bay and that of Tanaji's horse black. It will be noticed that there is a ring round the left leg of Shivaji's horse, a little above the knee joint—probably an indicator of the royal rank of the rider of the animal.

The quality of the canvas which is of indigenous cloth the characteristics of the horses which show them to be of the sturdy old Dekkani breed, the trappings of the horses, the peculiarities in the dresses of Shivaji and his generals—all go to show that the picture was probably painted in the life time of Shivaji or shortly after his death. The style of painting shows that the artist was undoubtedly a foreigner, probably one of the several who visited the court of Shivaji and after him that of the Peshwas.

The importance of the picture lies in that whereas in all the portraits of Shivaji, which are so far available, his face is shown only in profile, in the present portrait threefourths of his face is visible which thus gives a better idea of the personality of this great Indian Ruler. Unfortunately when the picture came into the possession of Mr. Pudumji he found the artist's name on the left hand corner scratched out, only the first letter R being faintly visible.

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"Extract from Nava-kal" a leading Marathi paper of Bombay of 17th January 1929, translated from Marathi into English :—

Maharaja Shivaji's Sword.

["Notes on the subject of Maharaja Shivaji's Sword by Khan Bahadur Bomanjee D. Pudumjee, Charni Road, Bombay."]

The world famous sword of Maharaja Shivaji has been the subject of a controversy which has not ended. Khan Bahadur Pudumjee has given a fresh impetus to this subject. There are strong proofs to lead us to believe that this sword which is in his collection must be Maharaja Shivaji's. Khan Bahadur Pudumjee belongs to the Pudumjee family of Poona and has a bungalow at Sinhghad, hence it is but natural that he should take so much interest in the subject of Maharaja Shivaji and the result of that interest is this sword.

In the booklet that we have before us there is a picture of the aforesaid sword, as also a photograph of a building known by the name of "Javhair Khana". The description of the sword and the opinion of those who have seen it and the letters in the old inscription on the blade of the sword itself—reading "Chhatrapati Maharaja Shivaji" are proofs of the authenticity of this sword. For the research made by Khan Bahadur Pudumjee on the subject, and the authoritative manner in which he has thrown light on the subject it is our duty to offer our congratulations to him.

If those who are interested in historical research work were to pay more attention to this subject they would be able to throw profitably more light on it.

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Old oil painting of Shivaji now in the possession of Khan Bahadur B. D. PUDUMJEE.

SHIVAJI'S PORTRAIT.

The illustration facing this page, is a copy of an old oil painting of Shivaji, three and a half by four feet in size, which represents the famous Maratha king on horseback, which is the most typical attitude in which a Maratha chieftain can be depicted. He is represented as being accompanied by two of his most trusted officers, *viz.* Baji Pasalkar, on the right, and Tanaji Malusare on the left. The whole group represents a reconnoitring party, and is a very effective memento of those stormy times. The oil painting came into the possession of Khan Bahadur B. D. Pudumji from a well known emporium of antique ware, and forms a splendid complement to the Sword of Shivaji. which is the primary figure in this brochure, There are some peculiar features about the oil painting, which at once attract attention. Experts are of opinion that the canvas is of indigenous manufacture, and represents the features of Shivaji and his officers in close proximity to the general described accounts of these well known historical personages. The breed of the horses too is typical of the famous Bhimthadi breed of horses which is considered as the best of all Deccani horses. The trappings of the horses and the accoutrements of the warriors all indicate that

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the artist must have been *au courant* with the details of his subject, and painted from a personal knowledge of the times of Shivaji, or of a date near abouts, as otherwise such wealth of detail and reality would be hard to find in a hearsay artist. Another point that strikes the looker on is the undoubted fact that the artist is a non-Indian, very likely some European artist, whose name has yet to be unearthed, but, who from the freedom of his touch, and the excellence of the colouring must have been no mean exponent of the art. Evidently he must have been one of those numerous artists and architects who frequented India about the time of Shivaji, which coincided with all that was highest in art in the Mogul Empire period. A peculiar importance attaches to the present depictment of Shivaji's features in as much as three-fourths of the face is shown, whereas all other portraits of Shivaji so far extant show the face only in profile. The present picture therefore is a remarkable advance on the biographical details of Shivaji, as giving a better clue to his person and physiognomy. The artist's name has evidently been scratched out, only the letter "R" being faintly visible in red colour. It ought to interest therefore all lovers of art to trace the name of this artist. A special illustration is given on the next page showing the illegible signature of the artist, with the initial "R" of the name.

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Remnant of the painter's signature on the oil-painting of Shivaji.

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Extract from an editorial in "The Indian National Herald" of the 15th January 1929.

Mr. Padamji has also been fortunate in lighting upon an old oil painting of Shivaji and two of his famous generals, Tanaji Malusare and Baji Fasalkar. A close scrutiny of the picture leads to a strong suspicion that it is either a contemporary portrait of Shivaji or one painted shortly after his death. This art reasure too, deserves to be acquired and preserved for the nation like the sword. We trust that all interested in keeping green the illustrious memory of the founder of the Maratha Empire will take early steps towards this end.

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SHIVAJI'S RESIDENCE CALLED "JAVHAIR KHANA."

It may be of interest to draw attention to yet another memento of Shivaji. In addition to the famous Sword of the Maharatha Chieftain, and the oil painting of Shivaji before referred to, there is one more relic of Shivaji, which is of great historical interest, and which is well known to all interested in the Shivaji literature. It consists of a structure on Sinhghad Hill, about fifteen miles from Poona, known as "Javhair Khana", or the Treasure House of Shivaji, shown in the illustration. It is a fortified place, forming an inner defence within the fortifications of Sinhghad Hill, as it needs must have been owing

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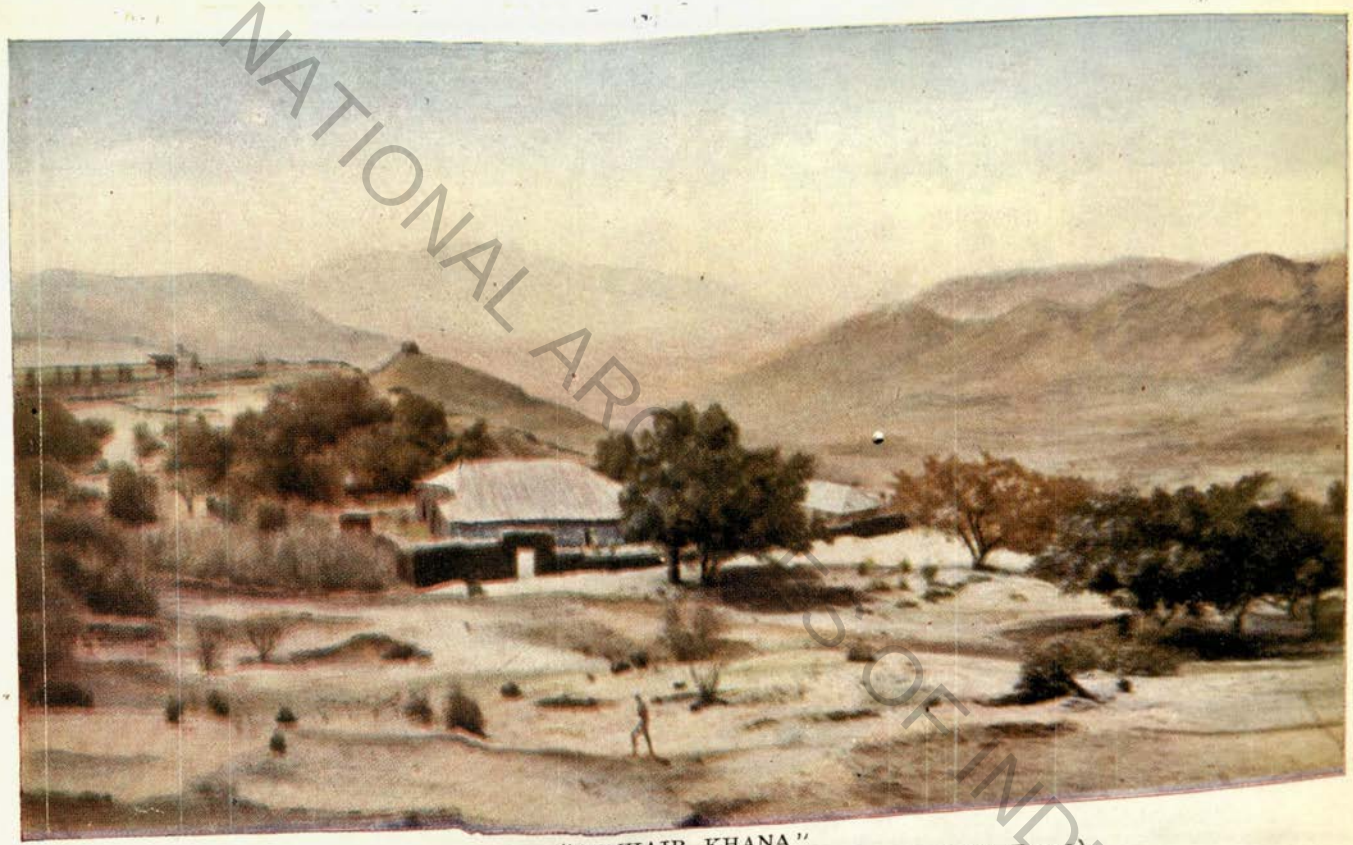

"JEVHAIR KHANA"
Once the Residence and Stronghold of Shivaji (Fort Singhad, Dt. Poona).
Now in the possession of Khan Bahadur B. D. PUDUMJEE.

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to the uses to which it must have been put as the receptacle of the currency and valuables of Shivaji, and Sinhghad is well known to have been the principal stronghold of Shivaji.

This "Javhair Khana" came into the possession of the present owner by inheritance from his grand-father, the well known merchant prince of Poona, the Hon'ble Sirdar Khan Bahadur Pudumjee Pestonjee, who was long connected with the military operations of the Bombay forces in the times of the Indian Mutiny. When the State properties of the *ancient regime* changed hands, this building along with others on the Hill came into the possession of the writer's grand-father, from whom it has descended to him. There are clear indications in and about the place of the uses to which this building was put in Shivaji's times, and what may be the result of further investigations at this site of former glory is a question that is fraught with great importance to all interested in antiquarian research.

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ADDENDA.

Khan Bahadur B. D. Pudumji has in his possession yet another souvenir of Shivaji depicting an episode in the life of that Maratha hero, which is current in most authentic Bakhars of the period. It consists of a round brass tray about 2 feet in diameter (*vide illustration*) where the incident is embossed in tableau form. When Kalyan was sacked by Shivaji in 1664 and the treasury of Aurangzebe there was looted, the loot consisted among other things of a number of boxes, in one of which there is said to have concealed herself a young Mogul lady, who was taken as a prisoner to Shivaji's presence. There are different versions of the story, one of them being that the lady was intended to be used as a decoy for snaring in and ultimately destroying Shivaji, which he was too wide-awake to permit to be done. The other version, and which seems to be the more natural one under the circumstances, is that Shivaji here displayed that nobility of character, which has justly stamped him as a national hero. Professor H. G. Rawlinson, M.A., I. E. S. in his "Shivaji, the Maratha: His Life and Times", (1915) at page 37 thus describes the event:—

> " Shivaji behaved like the gallant soldier he was to his captives. Abaji (Sondev) sent to him the daughter-in-law of Mulana Ahmad (Aurangzebe's Governor of Kalyan) a young woman of striking grace and beauty. The great Maratha, on seeing her, merely remarked with a laugh that had his mother been half so beautiful, he himself might have been a

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little less ugly, and dispatched her with every sign of respect to her relations. This chivalrous attitude towards women, (who according to the ethics of the day were the property of their captor), immensely increased Shivaji's prestige."

Thus the tray is a souvenir of a very important and interesting episode in the life of Shivaji. This fact has been depicted in a panel form on the pedestal of the large equestrian statue of Shivaji lately erected at the Shivaji Memorial Institution at Poona. The sculptor, Mr. Karmarkar, after an exhaustive research into the principal biographical incidents of Shivaji's life, has made this as one of the four subjects which form the four panels under the statue. An old relic connecting us with this incident is not without interest to historians and archaeologists, who are the right persons to appraise its real merit.

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ESSAI
SUR LA CIVILISATION TIMOURIDE

PAR

LUCIEN BOUVAT

Pht 2

EXTRAIT DU JOURNAL ASIATIQUE
(AVRIL-JUIN 1926)

38377

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JOURNAL ASIATIQUE.
AVRIL-JUIN 1926.

ESSAI
SUR LA CIVILISATION TIMOURIDE,

PAR

LUCIEN BOUVAT.

AVANT-PROPOS.

La domination des successeurs de Timour, en Perse et dans l'Asie Centrale, présente un curieux contraste. Alors que la décadence politique et sociale, vainement enrayée par Châh-roukh, fera, à la mort de ce souverain, des progrès rapides et irrémédiables, la renaissance intellectuelle favorisée par Timour brillera d'un vif éclat jusqu'à la fin de la dynastie. Jamais littérateurs, savants et artistes n'ont été plus nombreux; jamais le pouvoir ne leur a témoigné autant d'intérêt.

Dans le tome VIII de l'*Histoire du Monde*, publiée sous la direction de M. Eugène Cavaignac, professeur à l'Université de Strasbourg, nous exposerons les faits qui amenèrent la ruine de l'empire timouride. Les pages qui suivent donneront un aperçu de sa vie sociale et intellectuelle. Nous renverrons, pour l'énumération et la critique de nos sources, au travail que nous venons de citer, mentionnant toutefois, parmi les auteurs orientaux, Mîrkhond, Khondémîr, Bâber, Mîr ʿAlî Chîr et les *Institutes* attribuées à Timour; parmi les Européens,

IMPRIMERIE NATIONALE.

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les anciens voyageurs tels que Clavijo, Belin, Vambéry, W. Heyd et, plus près de nous, MM. Browne et Blochet.

I

LES INSTITUTIONS ET LA VIE SOCIALE.

Loi musulmane et loi mongole.

En adoptant l'Islam et sa législation, les Mongols avaient toutefois conservé leurs propres lois, codifiées à plusieurs reprises. Le jour même de son avènement, Djenguiz Khan avait promulgué le *Yasa* (ou *Yasak*), ensemble de dispositions correspondant à la fois à une Constitution nationale, à nos codes civil et pénal, à la loi militaire, aux règlements d'administration publique et aux ordonnances de police. Le *Yasa* posait les principes suivants [1] :

1° Tous jouissent de la liberté de conscience, à la condition de proclamer l'unité de Dieu;

2° Le souverain devra être un descendant de Djenguiz Khan en ligne mâle, et avoir été reconnu par les princes;

3° On ne fera jamais la paix avant d'avoir vaincu l'ennemi;

4° Les troupes sont divisées par détachements de 10, 100 et 1,000 hommes. Les officiers délivrent les armes aux soldats qui, aussitôt la guerre terminée, les rapportent à l'arsenal, et ne peuvent les reprendre que l'hiver, pendant la durée de la chasse;

5° Afin d'assurer la subsistance des grands et de l'armée, la chasse est interdite de mars à octobre;

[1] Timour, *Institutes*, trad. Langlès, p. 396-399.

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6° Le sang et les entrailles sont comestibles;

7° Tous les non-combattants doivent apporter gratuitement leur concours aux travaux d'utilité publique; ils consacrent, de plus, un jour par semaine au service du souverain;

8° Le vol sera puni, soit de mort, soit de 7 à 700 coups de bâton; cette dernière peine pouvant être rachetée par une somme égale à neuf fois la valeur de l'objet dérobé;

9° Aucun Mongol ou Tartare ne peut se faire servir par ses compatriotes. Celui qui aura pris chez lui l'esclave d'un autre, sans l'autorisation du propriétaire, ou n'aura pas ramené à son maître un esclave fugitif, sera puni de mort;

10° Le mari achète sa femme, qui ne peut être sa parente au premier ou au deuxième degré. Il a d'ailleurs la faculté d'épouser autant de femmes et d'avoir autant d'esclaves qu'il peut en nourrir;

11° L'adultère est puni de mort, et celui qui surprend les coupables en flagrant délit a le droit de les tuer. Toutefois les habitants de la province de Kayoudon sont, comme par le passé, autorisés à livrer leurs femmes à leurs hôtes;

12° Les parents peuvent, en observant les formes légales, marier valablement leurs enfants morts;

13° Les espions, les faux témoins, les sodomites et les sorciers sont punis de mort;

14° Il en sera de même pour l'intendant coupable de malversations; toutefois, si sa faute est légère, il se présentera devant le khan, qui décidera;

15° Les tarkhans [1] conservent leur privilège de pouvoir commettre impunément, jusqu'à neuf fois, le même crime;

[1] « On appelle ainsi celui qui est exempt de toute espèce de charges, qui ne doit aucune dîme pour le butin dont il s'empare, qui entre chez le roi

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16° Très superstitieux, les Mongols se jetaient dans les rivières et dans les lacs quand il tonnait. Voulant leur faire croire que l'agitation de l'eau produisait la foudre, Djenguiz leur interdit de se laver ou de se baigner quand ils l'entendaient.

Au siècle suivant Timour remenia et compléta les lois mongoles, et aurait donné à leur recueil le titre de *Tuzukât*, terme que Langlès, qui a traduit Timour, rend par « Institutes », et qui est formé par l'adjonction, à une expression mongole, d'un pluriel arabe. Les *Tuzukât* restèrent en vigueur pendant toute la domination timouride : ce fut en vain que les émirs de Pîr Mohammed, alors révolté contre Châhroukh, voulurent les abroger et demander un diplôme d'investiture aux khalifes fatimites d'Égypte.

Organisation sociale.

Timour avait partagé son entourage en douze classes[1] :

1° Les seyyeds ou descendants du Prophète, les savants, les cheikhs et les ulémas ou docteurs, tous amis intimes et conseillers du souverain;

2° D'autres conseillers choisis parmi les hommes s'étant fait remarquer par leur intelligence, leur fermeté et leur sagesse, et parmi les vieillards renommés pour leur expérience;

quand il le veut, qui n'est soumis à aucune enquête quand il commet une faute. Nom d'une tribu djagataï. » Pavet de Courteille, *Dictionnaire turk oriental*, 213. L'hypothèse d'une parenté entre l'étrusque et les langues ougro-finnoises a fait rapprocher ce terme du nom de Tarquin; cf. les études de M. H. Beveridge parues dans le *Journal of the Royal Asiatic Society, The Mongol title Tarkhan* (1917) et *Tarkhan and Tarquinius* (1918), ainsi que l'index général des Mémoires de Bâber, trad. Beveridge, II, p. 852 (note).

[1] *Institutes*, trad. Langlès, p. 30-39.

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3° Des hommes pieux choisis dans l'élite de la première classe : Timour avait recours à leurs prières, et déclare en avoir obtenu des résultats surprenants;

4° Les émirs ou chefs militaires, dont le souverain prenait l'avis, et qu'il récompensait en leur accordant des dignités;

5° L'armée, qui devait toujours être sur le pied de guerre. Elle était soumise à une discipline sévère, mais traitée avec justice et recevait régulièrement sa solde, souvent payée d'avance. Toute action d'éclat était récompensée;

6° Les confidents du souverain, c'est-à-dire les meilleurs de ses conseillers;

7° Les vizirs et secrétaires, surnommés « les miroirs de l'Empire »; ces mots disent assez ce que Timour attendait d'eux. Ils devaient le renseigner sur tout ce qui se passait, pourvoir à tout, assurer le bonheur des populations et encourager l'agriculture;

8° Les médecins, astrologues et géomètres : ils sont utilisés, pour le bien public, en raison de leurs capacités;

9° Les historiens, annalistes et chroniqueurs : le souverain se renseigne auprès d'eux sur le passé, pour pouvoir mieux satisfaire aux exigences du temps présent;

10° Les ascètes, religieux et théologiens : la vie future et les prescriptions divines sont leur seule préoccupation, et on leur attribue des pouvoirs miraculeux; leurs enseignements ne sont pas moins utiles au souverain;

11° D'habiles ouvriers, auxquels on offrait des situations avantageuses pour travailler, soit au palais, soit dans les arsenaux et les corps de troupes, où ils entretenaient et réparaient les armes;

12° Les voyageurs de toutes les provinces et de tous les

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pays : désireux d'avoir des renseignements sur les pays étrangers, le souverain leur faisait toujours bon accueil, et chargeait des marchands et des caravaniers de lui rapporter les objets rares de l'Europe, de l'Asie et de l'Afrique, et de lui rendre compte de l'état de ces pays et, notamment, de la façon dont ils étaient gouvernés. Timour et ses successeurs furent, d'ailleurs, toujours très accueillants pour les étrangers, qu'ils prenaient volontiers à leur service et qu'ils récompensaient généreusement : le Bavarois Schiltberger devint ainsi fonctionnaire de Châhroukh. Pîr Mohammed avait décidé que les voyageurs entrant dans ses États ou en sortant seraient défrayés de tout par le trésor royal.

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Les tribus mongoles, au début du xv[e] siècle, étaient au nombre de quarante, et douze d'entre elles formaient une élite; Timour leur avait accordé des *tamgha,* ou signes distinctifs, conférant à leurs chefs des grades militaires. Ces tribus étaient les suivantes : Barlas, Tarkhan, Arghoun, Djelaïr, Toulkatchi, Douldi, Moghol, Seldouz, Tougha, Kiptchak, Arlat et Tatar. Les chefs de vingt-huit tribus non pourvus de grades militaires étaient appelés *aymak* [1].

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De l'entourage du souverain nous passerons aux diverses classes de la société. Mîr ʿAlî Chîr en a dressé la liste, dans la seconde moitié du xv[e] siècle. La voici :

1° Le souverain, *sultân;*

2° Les begs (en osmanli *bey*), ou princes : ce terme a été

[1] *Op. cit.*, p. 97-100.

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remplacé plus tard par l'arabe *émîr*. Remarquons en passant que Charles VI a été appelé « grand émir », *émîr-i kébîr*, et que le titre de *bey* a été donné par les Ottomans aux rois de France, aux autres souverains étrangers, aux ambassadeurs et aux consuls[1];

3° Les *nâïb* « suppléants » : ce sont les *alter ego* du souverain;

4° Les vizirs ou ministres;

5° Les *soudoûr* (pluriel de l'arabe *sadr*), ou magistrats du plus haut rang;

6° Les yasaouls (synonyme de *tchaouch*, mot dont les Arabes d'Algérie ont fait *chaouch*), à la fois officiers de paix et ordonnateurs des cérémonies publiques;

7° La garde publique, *yasaghlek* (dite aussi *kara tchérik* ou *karakollouk*);

8° Les cadis, ou juges;

9° Les muftis, ou interprètes supérieurs de la loi religieuse;

10° Les professeurs de l'enseignement supérieur, *muderris;*

11° Les médecins;

12° Les poètes;

13° Les copistes, *kiâtib;*

14° Les maîtres d'écoles;

15° Les imams, desservants de mosquées;

16° Les lecteurs du Coran, *moukri;*

17° Les récitateurs du Coran, *hâfiz;*

[1] Belin, *Les moralistes...* dans le *Journal asiatique*, 1866, VII, p. 530 531.

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18° Les conteurs;

19° Les prédicateurs, *vâ'iz;*

20° Les danseurs et chanteurs:

21° Les astrologues;

22° Les marchands du bazar;

23° Les débitants et artisans;

24° Les *chihné*, commandants de la force publique;

25° Les *darogha*, inspecteurs et chefs de police;

26° Les gardes de nuit, *'ases;*

27° Les voleurs et les assassins;

28° Les *gharibzâdè*: on entend par là les saltimbanques, les bohémiens, les faiseurs de tours, etc.;

29° Les mendiants;

30° Les fauconniers et les chasseurs;

31° Les serviteurs;

32° Les cheikhs:

33° Les derviches;

34° Les gens mariés, hommes, *ketkhodâ*, et femmes, *ketbânoû*.

Le rôle social et politique des femmes.

Sous Timour les princesses prenaient part à toutes les fêtes et réceptions de la Cour; sous ses successeurs, elles exerceront souvent, en politique, une influence prépondérante[1]. Le

[1] Clavijo, chap. VI-VII. «D'après l'usage reçu chez les Mongols, quel que fût le nombre des femmes que possédât le souverain, il y en avait toujours une qui occupait le premier rang et, quoi qu'elle pût faire aux autres femmes,

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règne de Khalîl en est la preuve. Ce sont les femmes des émirs qui organisent la révolte contre lui, et sa passion pour Châdol-Molk lui fit perdre le trône. Après la mort de Châhroukh, Gauher Châd engage ʿAbdol-Latîf à prendre le pouvoir; et Aboû Saʿîd, qui la redoute, la fait mettre à mort. Emprisonné à Samarkand en 858 (1454), Hoseïn Baykara doit la liberté à sa mère Fîroûzè Begum, venue exprès d'Hérat pour intercéder en sa faveur. A la bataille de Tchikman, Hoseïn Baykara est accompagné de ses femmes; il répudiera la seule d'entre elles qui ait refusé de descendre de sa litière pour le suivre à cheval, Cheher Bânoû Khânoum. Intrigante et ambitieuse, une autre de ses femmes, Khadîdjè Begum, a la prétention de tout diriger; elle est la cause de la révolte des princes et de la mort de l'un d'eux, Mohammed Mu'min Mîrzâ. Bâber rapporte, dans ses *Mémoires*, qu'il fut reçu dans le palais de Hérat par Khadîdjè Agha, veuve de Aboû Saʿîd, qui, elle aussi, avait pris une grande part aux événements politiques. Quelques années auparavant, Zohrè Begum Agha, veuve de Sultân Mahmoud et mère de Sultan ʿAlî, décida ce dernier à livrer Samarkand à Cheïbânî, qu'elle voulait épouser; Cheïbânî lui témoigna la plus noire ingratitude.

A la cour des souverains turkmènes du Mouton-Blanc, les femmes n'avaient pas moins d'influence. Saraï Khatoun, mère de Ouzoun Hasan, travaillait à apaiser les rivalités de ses fils; elle aurait été envoyée en ambassade auprès de l'empereur de Trébizonde : on sait que Ouzoun Hasan épousa une Grecque.

Chez les Djelaïrides, nous voyons une femme, la princesse Tendoû, ou Dendi Sultane, occuper le pouvoir après la mort de Sultân Ahmed. Énergique et ambitieuse, Tendoû régna plusieurs années dans le Khouzistân.

il ne lui disait jamais rien.» Aboû'l-Ghâzî, *Histoire des Mongols*, éd. Desmaisons, p. 156 du texte et 165 de la traduction.

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Le gouvernement.

Le souverain, *khakan* ou *sultân*, qui, aux termes de la loi mongole, devait être élu par les princes, ainsi que son *kalgha*, ou successeur éventuel, ne prit pendant longtemps d'autre titre que celui de *mîrzâ* qui, venant après le nom, désigne les membres de la famille royale. On a cependant des monnaies de Châhroukh datées de 830 (1426), avec la légende « Sultan suprême », *Sultân Aʿzam*[1]. Bâber, le conquérant de l'Inde, fut le premier à se faire appeler *pâdichâh* : ce terme persan, équivalent du turc *khakan*, pourrait se rendre par « empereur » et s'appliquait aux souverains du Turkestan et de la Chine. Timour s'était fait appeler à la fois *Sultân* et *Khakan*.

Dans tous les pays musulmans, et à toutes les époques, on a regardé la frappe des monnaies et la mention de son nom dans la *khotba*, c'est-à-dire le prône du vendredi, comme des attributs de la souveraineté. Toutefois Sultân Hoseïn Baykara, dont l'autorité était limitée, usa de ces droits, et laissa même son vizir Behboûd faire apposer son nom sur les sceaux et sur les monnaies. Mîrzâ Yâdgâr, dont le pouvoir était encore moins étendu que celui de Sultân Hoseïn Baykara, suivit cet exemple. Le sceau officiel pouvait être remplacé soit par le *yarligh*, empreinte de la main du souverain enduite de rouge et apposée sur le papier, soit par le *tamgha*, chiffre royal tracé, selon l'importance du sujet, à l'encre d'or, rouge ou noire, remplaçant le *yarligh* en tête des firmans[2].

Les vizirs, ou ministres, devaient être au moins quatre

[1] Sédillot, *Sur le sceau de Schah-Rokh*, apud *Matériaux* . . . , I, 261-264.

[2] Le lion et le soleil, armes actuelles de la Perse, étaient aussi les armes de Timour; elles décoraient les palais de Samarkand avec les trois cercles représentant les trois parties du monde connu sur lesquelles régnait le souverain mongol; cf. Clavijo, chap. VI.

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pour pouvoir tenir conseil. Leur président était appelé *dîvânbeg*. On distinguait le vizir des provinces et du peuple, chargé des questions politiques, économiques, financières et de police; le vizir de l'armée : toutes les affaires militaires étaient de sa compétence; le vizir des voyageurs et des biens abandonnés, de qui relevaient les successions en déshérence; le vizir de la maison royale; et enfin trois vizirs des frontières et de l'intérieur [1].

Un *'arzbeg* « maître des requêtes » était chargé de faire au Conseil des rapports sur toutes les questions importantes. Le chef du clergé, les deux grands juges (civil et religieux), un secrétaire particulier, plusieurs autres secrétaires pour les séances publiques, et un agent comptable de chaque service se tenaient à la disposition du Conseil, et les grands de l'État, suivant un ordre de préséance nettement délimité, assistaient à ses délibérations. Des distributions de pains et d'autres vivres étaient faites, à chaque séance, aux personnes qui s'y trouvaient à un titre quelconque; pareille distribution était faite au peuple. Un *mîr tuzuk* présidait aux cérémonies [2].

L'administration provinciale [3].

Timour avait pour politique de se concilier les populations conquises par de bons procédés. Il laissait les gouverneurs en fonctions, autorisait les provinces qui le désiraient à conserver leur système fiscal, faisait des avances aux marchands ruinés, donnait aux agriculteurs l'outillage nécessaire, incorporait les militaires dans son armée en leur conférant des grades en

[1] *Op. cit.*, 93-96.

[2] *Ibidem*, voir aussi p. 90, 93 et 110-112. Pour les détails de l'étiquette mongole, cf. l'index général de la traduction de Mme Beveridge des Mémoires de Bâber, II, 855-856.

[3] Timour, *Institutes*, trad. Langlès, 120-138.

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rapport avec leur mérite, appelait les artistes à sa cour, fournissait du travail aux ouvriers et venait en aide aux indigents. Tout concours utile était récompensé, moralement et matériellement; mais Timour était sans pitié pour les fourbes et les traîtres.

L'empire était partagé en provinces de deux sortes : les plus importantes étaient dites *vilâyèt*, les autres *tomân*. Leur administration était, en petit, ce qu'était l'administration centrale. Le gouverneur était assisté de trois ministres : 1° du peuple, pour les finances: 2° des soldats, à qui il payait leur solde; 3°. des propriétés abandonnées ou en déshérence. Les provinces dont les revenus étaient grevés d'une pension avaient en outre deux intendants, l'un militaire, l'autre civil.

Le service des renseignements était très développé : dans chaque localité on trouvait des agents chargés de correspondre avec l'administration centrale et de la renseigner sur tout ce qui se passait. Les porteurs de dépêches étaient au nombre de 3,000, dont 1,000 à pied, 1,000 montés sur des chevaux, et autant montés sur des dromadaires. Toute négligence dans le service, toute fausse information, était punie avec la dernière sévérité.

Timour, enfin, avait décidé que chaque ville aurait au moins une mosquée, une école, un couvent, un hospice, un hôpital, un hôtel de ville, un tribunal et des agents de police, *kourtchi*. A la campagne, ce dernier terme s'appliquait aux gardiens des terres ensemencées.

Les finances [1].

La nature et le mode de perception des impôts n'étaient pas uniformes, Timour ayant accordé aux provinces conquises la

[1] *Op. cit.*, 49-55, 132-138.

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faculté de conserver leur système fiscal. En principe, il n'y avait ni taille ni capitation, et l'impôt, fixé au tiers ou au quart des produits agricoles, selon le mode d'irrigation des terrains, n'était exigible qu'après la récolte. On le payait, soit en nature, soit en argent. Il n'y avait de percepteurs qu'aux endroits où ils étaient nécessaires; toute violence, tout acte d'arbitraire leur étaient sévèrement interdits.

Ces prescriptions de Timour ne furent pas toujours observées par ses successeurs, et des abus intolérables imposèrent à Pîr Mohammed des réformes radicales. Ce souverain soumit tout le personnel administratif, du vizir au percepteur, à une sélection rigoureuse. Abou Sa'îd et 'Omar Cheikh eurent aussi une politique financière de premier ordre. Celle de Sultân Mahmoûd fut désastreuse et amena la ruine du commerce. Medjd' ed-Dîn Mohammed avait restauré les finances de Hoseïn Baykara, qui étaient en très mauvais état; mais, victime d'intrigues, le ministre réformateur fut disgrâcié.

Des pensions de diverses natures, les dotations des établissements publics et des fondations pieuses étaient prélevés sur les impôts, dont les émirs et les *ming-bachi* « chefs de mille » se partageaient le produit. Si le canton assigné à un officier ne suffisait pas à payer sa solde, le trésor royal la complétait; en cas d'excédent, cet officier partageait les revenus du canton avec un autre.

Les travaux publics [1].

La plupart des souverains timourides, Châhroukh, Olough Beg, Sultan Ahmed et Hoseïn Baykara notamment, avaient la passion de construire : nombreux sont les palais, mosquées, medresès, hammams, caravansérails, etc., qu'ils firent construire. On sait que les grands personnages, Mîr 'Alî Chîr

[1] *Op. cit.*, 128-138.

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entre autres, suivirent cet exemple. L'entretien des canaux était à la charge de l'État, qui prenait également soin des tombeaux des saints personnages. Les travaux destinés à faciliter les communications étaient l'objet d'une attention spéciale : déjà Timour avait fait construire de nouveaux ponts, remettre en état ceux qui existaient, et construire sur les grandes routes, à des distances peu éloignées, des caravansérails dont l'État rétribuait les gardiens. On a vu que Châhroukh faisait lui-même les frais de travaux d'utilité publique, pour lesquels il employait jusqu'à 7,000 ouvriers.

L'assistance publique.

La suppression de la mendicité était l'une des grandes préoccupations de Timour, qui multiplia les fondations ayant pour but d'assurer l'existence des indigents. Quand une nouvelle province était conquise, on en réunissait tous les mendiants, qui recevaient chaque jour leur nourriture et étaient obligés de porter un insigne spécial. S'ils continuaient à demander l'aumône, ils étaient bannis ou vendus.

Chaque ville, nous l'avons vu, avait son hospice et son hôpital; un médecin était attaché, à demeure, à ce dernier établissement.

La justice.

Selon leur nature, les crimes et délits étaient déférés, soit à la justice religieuse, représentée par les cadis et leurs chefs, *soudoûr,* soit à la justice civile, qui appliquait le *Yasa*, ou loi de Djenguiz Khan, dont nous avons fait connaître les dispositions. En cas de conflit entre militaires et civils, c'était le chef de la justice qui décidait.

Précurseur de la loi de sursis, Timour pardonnait volontiers une première faute, mais était impitoyable en cas de récidive.

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Il avait la même indulgence pour ses fils révoltés, qui furent simplement mis en prison et dépouillés de leurs dignités. Les hauts fonctionnaires coupables étaient destitués ou rétrogradés. Le péculat, considéré comme une faute peu grave, n'exposait qu'à des sanctions pécuniaires les vizirs indélicats. Si la somme détournée n'excédait pas le montant de leur traitement, on la leur laissait à titre de gratification; si elle atteignait le double, leur traitement était supprimé; leurs biens étaient saisis, si elle atteignait le triple. La concussion et les agissements contraires à l'intérêt public entraînaient de fortes amendes. Le soldat qui commettait des actes de brutalité subissait la peine du talion. Tout bien extorqué devait être restitué. L'amende ne pouvait être infligée sans que la culpabilité n'eût été affirmée par quatre témoins; dans aucun cas elle n'était infligée en même temps qu'une peine corporelle.

Hoseïn Baykara faisait observer la loi avec rigueur, sans tenir compte des personnes. Un de ses fils ayant commis un meurtre, il le renvoya devant le tribunal.

La police.

Chaque ville, et, dans les plus importantes d'entre elles, chaque quartier avait son chef de police, *ketvâl;* les agents placés sous leurs ordres étaient, à la ville comme à la campagne, appelés *kourtchi.* Il y avait en outre des *chihnè,* commandants de la force publique; des *yasaoul,* sorte d'officiers de paix, ordonnateurs des cérémonies; des *mohtasib,* autres officiers de paix, en même temps inspecteurs des marchés et vérificateurs des poids et mesures; des *darogha,* à la fois inspecteurs et chefs de police. Ces fonctionnaires avaient sous leurs ordres, en dehors des *kourtchi,* la garde publique, *yasaghlek,* dite aussi *karatchèrik* ou *karakollouk;* les *'ases* «gardes de nuit», et enfin les *karasourân,* sorte de gendarmerie chargée d'escorter les

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voyageurs et les marchandises, responsable de leur sécurité et faisant la police des routes : cette dernière institution s'est maintenue en Perse, sous le même nom, jusqu'à notre temps.

Luxe et débauche.

Pîr Mohammed, après avoir été un vaillant guerrier, termina son existence dans l'ivrognerie et les plaisirs, et Baysonkor mourut à 36 ans de ses excès. La débauche fut effrénée sous Sultân Mahmoûd; les femmes mariées étaient outragées, les enfants enlevés par les pédérastes. Son frère, Sultân Mohammed, était aussi dissolu que cruel.

Si brillant à tant d'égards, le règne de Hoseïn Baykara fut déplorable au point de vue des mœurs. Le souverain avait une quantité de concubines et de maîtresses. Ses fils, dont trois seulement étaient légitimes donnaient l'exemple de la corruption, et leur entourage se livrait à des exactions odieuses. Le grand juge Khâdjè 'Abdollâh Morvârîd mourut de ses débauches; le gouverneur de Bâber, Cheikh Mezîd Beg avait des mœurs contre nature.

Hérat était alors une ville de luxe et de dissipation. Bâber, qui y passa l'hiver de 912 (1506), y voyait les fils de Hoseïn Baykara, luttant alors contre Cheïbânî, passer leur existence dans les festins et les parties de plaisir. La musique, le chant, la danse, leur faisaient oublier leurs intérêts et leurs devoirs. Ce fut à Hérat que Bâber contracta l'habitude de boire du vin.

Débauchés et prodigues, les grands personnages se faisaient remarquer par leur faste. 'Abdul-Âlî Tarkhan, gouverneur de Boukhârâ sous Sultân Ahmed, homme néfaste à la dynastie, était plein d'orgueil et de dureté; il en était de même de son fils Bakî, mort misérablement après sa révolte. Sous Hoseïn Baykara l'émir Djihânguîr Berlâs montrait un faste inouï.

Un autre émir de Hoseïn Baykara, Mohammed Velî Beg,

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peut être considéré comme le véritable type du courtisan. Arrivé à une haute situation, il avait élu domicile dans le palais de son maître et ne le quittait jamais, y faisant apporter sa nourriture, celle de ses clients et de ses chiens.

Meurtres et supplices.

Les actes de cruauté abondent dans l'histoire de cette époque. Les Timourides et leurs émirs font facilement mettre à mort leurs rivaux et les hommes dont ils se défient; quand ils leur laissent l'existence, ils les font aveugler. C'est ainsi que sous Châhroukh, Mîrzâ Roustem fait aveugler l'émir Sa'îd Berlâs. Bâber Mîrzâ ordonna de faire subir le même traitement à 'Alâ'od-Dooulè; cet ordre ne fut d'ailleurs pas exécuté; mais il fit mettre à mort Mohammed Mîrzâ. Sous son règne, Hindoukè tue Aboû Sa'îd Darogha, il est lui-même tué en combat singulier, et sa tête est envoyée à Hérat. Lâche, ingrat et cruel, le vizir Khosrô Châh devait sa situation à Sultân Mahmoûd; il fit aveugler son fils et successeur Sultan Mas'oûd, et massacrer son frère Baysonkor, avec une partie de sa suite. Le premier acte de Sultân Mahmoûd, arrivé au pouvoir, avait été d'ailleurs de faire massacrer les quatre fils de son frère et Sultân Mohammed, à son avènement, fit massacrer ses neveux. On avait souvent recours au poison : Sultân Veled, fils d'Aboû Sa'îd, aurait été empoisonné par l'un de ses officiers, et Mozaffer Berlâs, émir de Hoseïn Baykara, serait mort de même. A l'inverse de ce qui se voyait en Europe, la pendaison était considérée comme une mort honorable, et la décapitation avait un caractère infamant.

Le meurtre amenait la vendetta. Voulant jouir d'une autorité absolue, Djihânchâh avait fait massacrer les confidents de 'Omar Mîrzâ. Vaincu et obligé de prendre la fuite, il se vengeait en faisant massacrer les fils de son rival, Cheïkh Mo-

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hammed Touvadji; l'un d'eux, qui avait pu s'échapper, le tua. ʿAbdol-Latîf avait fait assassiner son père Olough Beg, qui fut vengé par un serviteur de celui-ci.

Châdol-Molk, l'amante de Khalîl, aurait été promenée enchaînée et insultée par la foule dans les rues de Samarkand. Mîrkhond prétend qu'à la prise d'Ourguendj, Mohammed Cheïbânî fit promener l'un de ses prisonniers, Tchîn Soûfî, attaché à la queue d'un âne, avant de le faire exécuter. On connaît la légende d'après laquelle Châh Ismâʿîl aurait fait faire une coupe du crâne de Cheïbânî.

Les Turkmènes d'alors n'étaient pas moins cruels. Ouzoun Hasan fit exécuter son fils révolté; Khalîl fit tuer son frère, et Yaʿkoûb mourut empoisonné.

L'ivrognerie.

Ce vice était extrêmement répandu, et les Mémoires de Bâber[1], sans parler d'autres textes, en apportent à chaque instant le témoignage. Bâber mentionne diverses sortes de vins, les *maʿdjoûn*, préparations enivrantes très appréciées et dont lui-même il fit grand usage, ainsi que d'autres boissons : de son temps on fabriquait plusieurs sortes de bières. Pîr Mohammed était adonné au vin; Mîrânchâh en buvait au point que sa santé et sa raison en furent altérées : Timour condamna à mort trois de ses compagnons de plaisir, et en fit exécuter deux. Djihânchâh était un ivrogne invétéré; Baysonkor, fils de Châhroukh, mourut de ses excès à 36 ans; Bâber Mîrzâ et l'un des fils de Hoseïn Baykara, Ibrâhîm Hoseïn Mirzâ, périrent de même. Sultan Ahmed et sa femme Koutouk Begum, Sultan Mahmoûd, buvaient volontiers du vin, *et*

[1] Voir l'index général de la traduction Beveridge, II, 870. Voir aussi les chapitres VI et VII de la relation de Clavijo : les détails qu'ils donnent présentent une analogie frappante avec ceux que l'on trouve dans Bâber.

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ʿOmar Cheikh n'y renonça que pour s'adonner aux *maʿdjoûn*. L'exemple donné par les souverains et leurs proches fut suivi par les autres classes de la population; les contemporains représentent le poète Seïfî Bokhârî comme un ivrogne éhonté.

Ces mœurs se retrouvaient à la cour des souverains turkmènes. Ouzoun Hasan était un grand buveur et un joyeux convive. Le sultan Yaʿkoûb s'adonnait aussi au vin.

Rien, ou presque rien, ne fut fait pour enrayer les progrès de l'ivrognerie. C'est à peine si l'on peut citer l'exemple d'un Seyyed Mortezâ Mohtaseb, pieux personnage qui, ennemi acharné des buveurs, les pourchassait impitoyablement, faisant répandre le vin et saccager les établissements où on le vendait.

Fêtes, divertissements et sports [1].

Les fêtes étaient fréquentes à la cour des Timourides. Celles que donna Aboû Saʿîd lors de la circoncision de ses fils, en 870 (1465-1466), ne durèrent pas moins de cinq mois. Les banquets, dans lesquels on faisait grand usage de vins et de préparations enivrantes, étaient également nombreux; Badiʿoz-Zemân était un gastronome réputé.

Nous verrons, dans un autre chapitre, que la musique vocale et instrumentale était fort appréciée; il y a de nombreux exemples de souverains, de ministres et de hauts personnages s'étant fait apprécier comme compositeurs ou comme exécutants. La danse était également en faveur : on cite même un Seyyed, nommé Bedr, qui se rendit célèbre par son talent de danseur [2]. On reprochait à Sultân Mahmoûd de passer sa vie au milieu de bouffons et de gens méprisables.

[1] Voir *op. cit.*, II, 856. Clavijo, dans les chapitres VI et VII de sa relation, décrit longuement les fêtes auxquelles il assista à la cour de Timour.

[2] Vambéry. *Gesch. Bochara's*. II, 33.

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Des différents jeux, le plus répandu était celui des échecs. Certains personnages avaient pour lui une passion incroyable : Mîr Mourtâz, ascète, philosophe et métaphysicien du temps de Hosein Baykara, doit moins sa célébrité à ces divers titres qu'à son habileté au jeu. Devîch Mohammed Tarkhan, émir de Sultân Ahmed, doit également sa célébrité aux échecs. 'Omar Cheikh leur préférait le *nerd*, sorte de trictrac, dans lequel son émir Hasan Ya'koûb Beg excellait. 'Abdol-Latîf dissipa ses trésors au jeu.

La chasse et la pêche étaient les sports préférés; il en est souvent question dans les Mémoires de Bâber. Parmi les meilleurs chasseurs d'alors, on cite Sultân Mahmoûd, Châh Gharîb Mîrzâ, Dervîch Mohammed Tarkhan et Bakî Tarkin, émirs de Sultân Ahmed, et surtout Mohammed Berendoûk Berlâs, émir de Hosein Baykara, qui poussait jusqu'à l'extravagance le goût de la fauconnerie. Le tir à l'arc avait aussi ses fervents : Sultân Ahmed Djelaïr, Hasan Ya'koûb Beg, émir de 'Omar Cheikh, Aboûl-Mouhsin Mîrzâ, Eslim Berlas, émir de Hosein Baykara. Pour l'escrime et le maniement du sabre, nul n'égalait ce dernier souverain. La lutte, enfin, était pratiquée par les émirs Djânîbeg Doulday, sous Sultân Ahmed, et Pehlvân Mohammed Boû Sa'îd, sous Hosein Baykara.

Croyances et superstitions.

On sait quel rôle jouait l'astrologie dans les cours d'Orient et d'Europe au xv^e^ siècle. Chaque souverain avait au moins un astrologue attitré, souvent plusieurs, et nous donnerons quelques détails sur ce point dans un autre chapitre. Nous avons vu que le *Yasa* contenait des prescriptions contre certaines coutumes observées par les Mongols quand ils entendaient la foudre. Il punissait également de mort les sorciers: mais cette dernière prescription semble avoir été rarement

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appliquée. La magie avait des adeptes dans tous les milieux : des auteurs estimés lui ont consacré des traités, et le Cheïbanide Khodja Mohammed, fils d'Aboû'l-Khaïr, prédisait aux femmes le sexe des enfants qu'elles attendaient, d'après la manière dont la graisse, jetée dans le feu, pétillait. Les pierres passaient pour avoir des vertus mystérieuses : le jade, par exemple, pouvait provoquer la pluie[1].

Les funérailles.

Le mausolée de Gauherchâd, à Hérat, était la sépulture ordinaire des Timourides; nous parlerons ailleurs du Goûr-é Mîr, ou tombeau de Timour à Samarkand. Un deuil public, de durée variable, était prescrit à la mort d'un prince ou d'un grand de l'État : il fut de quarante jours pour Baysonkor, de trois jours pour Mîr ʿAlî Chîr. Bâber Mirzâ voulut porter lui-même le cercueil du vénérable Cheikh Behâ El-Hakk vè'd-Dîn, et Hoseïn Baykara présida le service funèbre en l'honneur de Mîr Alî Chîr. Il était d'usage de donner, à la suite des funérailles, un banquet pendant lequel on lisait le Coran : du temps de Timour, le grand tambour mongol battait sans interruption pendant le banquet; celui-ci terminé, on le mettait en pièces. Les vêtements de deuil étaient de couleur noire ou bleue; le feutre y remplaçait la fourrure pour les collets.

II

LA VIE INTELLECTUELLE.

Au point de vue intellectuel, dit Vambéry[2], la période timouride ne peut être comparée qu'à celle des Omeyyades

[1] Cf. l'index général des Mémoires de Bâber, trad. Beveridge, II, 856 (Folklore) et 860 (Magic).

[2] *Gesch. Bochara's*, I, 29.

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d'Espagne et des Abbasides de l'Arabistan. Elle est la résultante de l'évolution qui s'était opérée sous les derniers souverains mongols : les cours de Maragha, de Tauris et de Sultanié furent surpassées par celles d'Hérat et de Samarkand. Nous avons vu plus haut que les souverains timourides étaient, pour la plupart, des poètes, des savants, des artistes. Il nous suffira de rappeler les noms de Châhroukh, de Olough Bey, de Hoseïn Baykara et du sultan Bâber. La littérature persane prend son essor; la littérature turque, bien que de création récente, rivalisera avec elle.

L'enseignement.

Sous Timour et ses successeurs, l'enseignement a pour base la religion musulmane; l'étude et l'exégèse du Coran en sont les parties essentielles; aussi les *medresès*, collèges ou établissements d'enseignement supérieur, sont-elles, d'ordinaire, des dépendances des mosquées ou des couvents. Musulman convaincu, Timour avait fondé une *medresè* dans chaque ville, et assuré à son personnel des traitements lui permettant de vivre honorablement. Les grands personnages tenaient à honneur de faire les frais d'établissements semblables. Mîr ʿAlî Chîr, qui consacra une grande partie de sa fortune à des fondations pieuses, donna, dans le couvent de sa Medresè Ikhlâsiyè de Hérat, l'hospitalité à Mîrkhond, qui y trouva tous les documents nécessaires à ses travaux historiques. Mîr ʿAlî Chîr[1] se faisait une haute idée du rôle du *muderris* ou professeur : il le voulait fervent musulman, connaissant à fond les matières qu'il enseignait, menant une existence pleine de dignité, fréquentant les gens pieux et les prenant pour modèles.

Avec le Coran et ses divers commentaires, on étudiait, dans

[1] *Mahboûboul-Kouloûb*, éd. de Constantinople, 28.

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les *medresès*, les traditions relatives au Prophète, la langue arabe, la jurisprudence, la philosophie et la morale. Plusieurs professeurs sont restés célèbres, tels le savant théologien Mollâzâdè Mollâ ʿOsmân, contemporain de Sultân Hoseïn Baykara, qui aurait commencé à enseigner à l'âge de 14 ans, et possédé l'*idjtihâd*, ou pouvoir de trancher les questions théologiques en se basant sur le dogme et la tradition, sans en exercer les prérogatives; le cadi Djelâl ed-Dîn, fameux philosophe qui enseigna longtemps à Chîrâz, et le maître de Mîr ʿAlî Chîr, le juriste Khodja Djelâl ed-Dîn Feïzollâh, de Hérat.

Les écoles primaires désignées par le nom de *mèktèb* qu'elles portent aujourd'hui encore en Turquie et en Perse, étaient, elles aussi, des dépendances de la mosquée, et leur enseignement avait pour base l'étude du Coran et des dogmes de l'Islam. Mîr ʿAlî Chîr[1] a également une haute idée du rôle du *mèktèbdâr* « maître d'école » : il le veut ferme, énergique, juste, pénétré du sentiment de ses devoirs et ayant la volonté et les moyens de redresser les mauvaises natures. *Maxima puero debetur reverentia :* Mîr ʿAlî Chîr partage l'opinion de Sénèque et fait dépendre, de l'éducation des enfants, l'avenir de la société. Il conclut en disant : « Si le maître est satisfait de ses élèves, Dieu aussi en sera satisfait. »

La littérature persane.

L'activité littéraire de l'époque timouride a été remarquable. M. Browne[2] a relevé dans le *Habib-os-Siyèr* de Khondémîr 211 notices d'écrivains : si on y ajoute celles qui ont été consacrées aux littérateurs protégés par les souverains des dynasties du Mouton-Blanc et du Mouton-Noir, on arrive à un

[1] *Op. cit.*, 35-36.
[2] *Persian Literature under Tartar Domination*, 421.

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total de 274 biographies. C'est à la cour de Hérat, sous le règne de Hoseïn Baykara, que cette littérature atteignit son apogée.

On peut toutefois reprocher aux auteurs d'alors leur abus de la rhétorique : des pointes, des métaphores déplacées ou puériles gâtent des œuvres qui, sans elles, seraient sublimes. La littérature ottomane, créée à son imitation, et dont Djâmi et Mîr ʿAlî Chîr furent les modèles préférés, en reproduit les qualités et les défauts : comme elle, elle est subjective, artificielle, de convention, et montre une habileté toujours croissante de l'artisan et de l'artiste[1]. Il en est de même de la littérature musulmane dans l'Inde. La recherche et la préciosité ont longtemps prévalu en Perse, surtout sous la domination turco-mongole; mais il ne faut pas croire qu'elles soient particulières à la Perse : les Arabes, malgré leur goût de la concision, en offrent de nombreux exemples. Hoseïn Vâʿez Kâchefî, parmi les poètes; Mîrkhond et Khondémîr, parmi les prosateurs, sont les exemples les plus frappants de ces écrivains diffus, aimant les énigmes et les jeux d'esprit, qui caractérisent la fin de l'époque timouride, et d'après lesquels on aurait tort de juger la littérature persane[2].

Souverains et princes poètes.

Les poètes de cour.

Sans être lui-même poète, Timour aimait beaucoup la poésie et savait citer des vers avec à-propos. La plupart de ses successeurs furent poètes, et parfois poètes de talent : tels

[1] *Op. cit.*, p. 421-423. L'auteur renvoie à E. J. W. Gibb qui, dans le t. II de son *History of Ottoman Poetry*, a décrit cette influence avec un peu d'exagération peut-être, mais beaucoup de netteté.

[2] *Op. cit.*, p. 461.

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Châhroukh, auteur d'un *yourtouk* célèbre sur le guerrier[1], Olough Beg, Sultân Iskender, Khalîl Sultân, qui a laissé un Divan, Baber Mîrzâ, ʿAbdol-Latîf Mîrzâ, qui ne manquait pas de mérite, Seyyed Ahmed Mîrzâ et Sultân Ahmed Mîrzâ, tous les deux fils de Mîrânchâh, Baykara, Kitchik Mîrzâ, à la fois poète et prosateur, lettré et savant, Badîʿoz-Zemân Mîrzâ et Ferîdoûn Hoseïn Mîrza, le fils de Sultan Hoseïn.

Les souverains eurent des poètes attitrés, comme Khodja ʿIsmet Bokharî, qui vivait à la cour de Khalîl Sultân et fut le maître de Olough Beg; Khodja Avhad Mostoufî, de Sebzéuar, astronome et poète, panégyriste de Sultan Hoseïn Baykara; Khodja Mesʿoûd Koûmî, qui aurait écrit une histoire de ce souverain en 12,000 distiques; Mevlânâ Zemânî, le poète de cour de Badîʿoz-Zèmân, et Mollâ Binâï, dont nous reparlerons, qui, après avoir été le protégé de Mahmoûd Sultân, devint le poète officiel de Mohammed Cheïbânî. Nous parlerons également en détail du célèbre Mîr ʿAlî Chîr, quand nous aborderons la littérature turque. Poète et prosateur, artiste et savant, il fut aussi un homme d'État et un administrateur en vue. Son mérite, incontestable si on le considère comme poète turc, laisse place à la critique, si on considère ses œuvres persanes, dit M. Browne[2] : ses idées sont parfois pauvres, et sa métrique défectueuse. Mîr ʿAli Chîr, qui nous a laissé, dans sa *Khamsètul-Mutèhayyirîn*, de précieux souvenirs sur Djâmî, a consacré aux souverains et aux princes poètes de la dynastie timouride le huitième livre de ses *Mèdjâlisun-Nèfâïs*[3].

[1] En voici la traduction donnée par Belin dans le *Journal asiatique* de 1861, t. XVII, p. 286 : « Le guerrier doit se jeter au milieu de la mêlée, du carnage; blessé il ne doit chercher d'autre lit que la crinière de son cheval; mérite de mourir de la mort d'un chien, le misérable qui, se disant homme, implore la pitié de l'ennemi. »

[2] P. 505-506.

[3] Publié et traduit par Belin dans le *Journal asiatique* de 1861, XVII, p. 281-299.

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Djâmî [1].

Le plus grand nom de cette période est celui de Djâmî, ou Molla Noûr ed-Dîn 'Abdor-Rahmân Djâmî. Né à Djâm, en Khorassan, le 23 cha'bân 817 (7 novembre 1414), mort à Hérat le 18 moharram 898 (9 novembre 1492), Djâmî, poète, savant et mystique, a traité avec succès les genres les plus divers. Dans la liste, probablement incomplète, de ses ouvrages, nous trouvons 46 titres. Il a écrit trois Divans, sept Mesnévis, un commentaire du Coran, des traités de théologie, de traditions, d'hagiologie, de grammaire arabe, de prosodie, de musique, des recueils d'énigmes, de lettres, etc.

Son œuvre poétique comprend, avec les Divans intitulés *Fâtihatoch-Chabâb* « Les Débuts de la Jeunesse », *Vâsitatol-'Ikd* « Le Milieu du Collier » et *Khâtimatol-Hayât* « La Conclusion de la Vie », un recueil dit *Hèft Oourèng* « Les Sept Trônes », formé avec les poèmes suivants : 1° *Sèlsèlatoz-Zahab* « La Chaîne d'or », œuvre morale, religieuse et philosophique, un peu décousue, mais attrayante, d'inspiration sunnite et mystique à la fois; 2° *Salmân ou-Absâl*, histoire allégorique d'un roi de Grèce d'une sagesse profonde, Salmân, et de son fils Absâl, à qui il sert de mentor. Ce poème étrange, traduit en anglais par M. Fitzgerald, en français par M. Bricteux, se termine par la mort d'Absâl et la purification de son père, qui est délivré de tous ses désirs; 3° *Tohfatol-Ahrâr* « Le Présent fait aux hommes libres », œuvre didactique, morale et religieuse, faisant l'éloge du Prophète et terminée par des conseils au fils de l'auteur; 4° *Sobhatol-Abrâr* « Le Rosaire des hommes pieux », poème du même genre que le précédent; 5° *Yoûsouf ou-Zouleïkhâ* : c'est l'histoire de Joseph et de la femme de Putiphar d'après

[1] Browne, *op. cit.*, p. 507-548.

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le Coran. Le sujet a été souvent traité par les poètes persans et turcs, et il existe plusieurs traductions, anglaises ou allemandes, de l'ouvrage de Djâmî; 6° *Leïlâ ou-Medjnoûn* : les amours de Leïla et de Medjnoûn sont bien connues, et ont inspiré plusieurs poètes; 7° *Khirèdnâmèyé-Sikèndèrî* «Le livre de la sagesse d'Alexandre».

Parmi ses œuvres en prose, il faut citer les *Nafahâtol-Ons* «Souffles de l'amitié», précieux recueil de biographies des soufis célèbres, le *Bahâristân*, traité de morale anecdotique à l'imitation du *Gulistân* de Saʿdî, et les *Lavâyèh*, livre demeuré inédit et qui est un admirable résumé des croyances musulmanes, touchant le Prophète, sa mission, ses compagnons et le châtiment de ses ennemis.

Esprit indépendant, Djâmî, qui avait un grand respect pour ses maîtres spirituels, ne flattait pas les puissants, et avait la réplique vive pour ceux qui l'attaquaient. Sunnite convaincu, il se justifia, à son retour du pèlerinage, en 877-878 (1472), des accusations des docteurs de Bagdad, qui lui reprochaient de pencher vers le Chiisme.

Djâmî a été l'objet de l'admiration unanime des littérateurs persans, tant de ses contemporains que de ceux qui l'ont suivi. Mîr ʿAlî Chîr écrivit sa *Khamsatul-Mutèhayyirîn* uniquement pour faire son éloge. Le sultan Bayézîd II, qui l'appréciait hautement, était en relations directes avec lui. Parmi ses biographes, on doit citer, en Orient, Sâm Mîrzâ et surtout son disciple ʿAbdol-Ghafoûr Lârî; en Europe, Nassau Lees.

Nous devons ici donner, avec l'opinion d'un lettré persan contemporain, Mîrzâ Behroûz, recueillie par M. Browne, celle de M. Browne lui-même[1]. Supérieur à Nizâmî pour la forme poétique, la douceur et la simplicité, Djâmî ne l'égale pas pour la profondeur, l'imagination et l'éloquence; pour bien

[1] *Op. cit.*, p. 540-548.

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comprendre Nizâmî, il faut connaître à fond la langue persane; de là le succès de Djâmî en Turquie et dans l'Inde. Nizâmî rivalise avec Firdoousî : bien que mystique, Djâmî est essentiellement orthodoxe, et la Perse ancienne l'attire beaucoup moins. On peut lui reprocher d'avoir suivi de trop près Nizâmî, et trop copié ses procédés.

Mais Djâmî, conclut M. Browne, est un admirable poète lyrique, le dernier des grands classiques persans, l'un des plus remarquables et des plus féconds, et celui qui a su le mieux rendre le mysticisme et le panthéisme persans. Après les travaux de Rosenszweig, Rückert et Weckerhauser, ce ne serait pas trop d'un volume entier pour étudier son œuvre lyrique. Djâmî a pu être surpassé dans certains genres, mais aucun poète n'a pu aborder avec autant de bonheur des sujets aussi variés.

La poésie religieuse et mystique.

Le premier en date des poètes mystiques est Seyyed Ni'metollâh de Kermân, le fondateur de l'ordre des Ni'metollâhîs. On a dit de lui qu'il fut le roi des derviches et l'ami des rois. Descendant du khalife 'Alî par l'imam Bâkir, il était né à Alep en 730 (1329-1330) et mourut à Mâhân, près de Kermân, où se trouve son tombeau, en 834 (1431). Disciple de Cheikh 'Abdollâh Yâfi'î, il passa sept ans à la Mecque et habita Samarkand, Hérat, Yezd, avant de se retirer à Mâhân. Châhroukh le protégea; un roi du Deccan, Ahmed Châh Bahmanî, fit venir son petit-fils à sa cour, et ses descendants épousèrent des princesses séfévies. Seyyed Ni'metollah est beaucoup plus connu comme mystique que comme poète : son Divan est d'ailleurs plutôt médiocre et monotone, bien que les pièces prophétiques qu'il contient aient eu un immense succès; de nos jours les Babis eux-mêmes ont voulu y trouver des arguments.

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Écrivain très fécond, il aurait composé, dit la tradition, plus de cinq cents traités religieux[1].

Kâsimol-Anvâr, autre Seyyed mystique non moins célèbre, était né à Sârâb, aux environs de Tauris, en 757 (1356). Après avoir reçu l'enseignement de Cheikh Sadr ed-Dîn Ardebîlî, ancêtre des Séfévis, et de Cheikh Ouhad ed-Dîn Kermânî, il alla en Guîlân et en Khorassan, et se fixa à Hérat où sous Timour et Châhroukh, il se fit de nombreux disciples. Accusé par Baysonkor d'avoir attenté à la vie de Châhroukh, il se réfugia à Samarkand, auprès de Olough Beg, revint ensuite en Khorassan et mourut à Khardjird en 837 (1433-1434). On le considérait comme hérétique et séditieux, parce que ses disciples, non pratiquants, avaient adopté une sorte de communisme; sans être lui-même horoûfî, il avait subi l'influence des Horoûfîs, et ses ouvrages le montrent. Son intimité avec les Séfévis, les futurs souverains de la Perse, est prouvée par une généalogie inédite de cette dynastie que possède M. Browne. Ses œuvres comprennent un Divan inédit et plusieurs mèsnévîs en turc ou en dialecte du Guîlân[2].

ʿÂrîfî de Hérat, né vers 1389 et mort vers 1449, a laissé, entre autres ouvrages, un *Hâl-Nâmè* «Livre de l'Extase», poème de 500 vers assez insipides, malgré la réputation dont il jouit, et qui aurait été composé en quinze jours, en 842 (1438-1489)[3].

Mevlânâ Hoseïn Kouberâï, descendant du célèbre Nedjm ed-Dîn Kouberâï tué par les Mongols à ʿOurguendj, a laissé,

[1] Browne, *op. cit.*, p. 465-473.
[2] *Op. cit.*, p. 463-473.
[3] *Ibid.*, p. 496.

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avec des poésies mystiques, un Commentaire du *Mèsnévî* de Djelâl ed-Dîn Roûmî.

Le mèsnévî.

L'expression arabe *mèsnévî* « redoublé » désigne un poème de longue haleine, le plus souvent moral ou philosophique, mais parfois aussi épique ou historique[1], dont chaque vers rime avec le vers suivant. Djelâl ed-Dîn Roûmî, mort en 672 (1273) a écrit le chef-d'œuvre du genre; à l'époque timouride Djâmî en a été le plus illustre représentant. Son neveu ʿAbdollâh Hâtifî[2], surnommé *mèsnévîgoûy* « le diseur de mèsnévis », a marché sur ses traces, mais en le suivant de trop près : aux *Hèft-Péiguèr* et au *Khirèdnâmèyé-Sikèndèrî* correspondent les *Hèft-Manzèr* « Sept Loges » et le *Timour-Nâmé* « Livre de Timour ». Comme son oncle, ʿAbdollâh Hâtifî a traité le sujet de Lèilâ et Medjnoûn.

Kâtibî de Nichapour[3], mort en 838 (1434-1435), était un poète de grand mérite, vanté par Mîr ʿAlî Chîr. Il avait commencé par s'adonner à la calligraphie sous la direction de Sîmî qui, comme lui, était poète. Ses progrès trop rapides ayant excité la jalousie de son maître, il quitta Nichapour et mena une vie errante, habitant tour à tour Hérat, Asterabad, le Chirvan, l'Azerbaïdjan et Recht, avant de retourner à Asterabad où il acheva ses jours. Désabusé, il avait renoncé aux cours des souverains pour mener la vie ascétique. En dehors de ses mèsnévîs, il a laissé une imitation de la Khamsè de Nizâmî et un Divan inédit. L'historien Cheref ed-Dîn ʿAlî Yezdî était aussi un poète, et il a composé des mèsnévîs.

Le sultan Bâbèr avait écrit plusieurs mèsnévîs, dont le

(1) Garcin de Tassy, *Rhétorique et prosodie*, 2e éd., p. 375.
(2) Browne, *op. cit.*, p. 549.
(3) *Op. cit.*, p. 487-495.

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recueil porte le titre de *Mubîn* « L'Évident ». On trouve, parmi ses contemporains, Hèlâlî[1], poète très fécond qui n'aurait pas composé moins de trente ou quarante mille distiques formant un Divan, des ghazals dont la forme vaut mieux que le fond, et un mèsnévî intitulé *Châh ou-Dèrvîch* « Le roi et le derviche », dans lequel on trouve de beaux vers, mais peu de profondeur, une structure défectueuse et des idées bizarres ou répugnantes : il prétend ainsi que la beauté de l'homme est supérieure à celle de la femme. A sa grande facilité poétique, Hèlâlî joignait une mémoire prodigieuse et une remarquable érudition en matière de prosodie. Ses opinions singulières lui ont valu de vives critiques de la part de Bâbèr. C'est à ce dernier que Mollâ Bakâï, poète excellent, dédia le recueil de mèsnévîs qu'il avait composé sur le mètre du *Makhzènol-Esrâr*. On trouve encore, à la fin de l'époque timouride, Seyyed Ahmed Mîrzâ, fils de Mîrânchâh, connu pour son *Lètâfèt-Nâmè* « Livre de grâce », Fakhrod-Dîn ʿAlî, fils de Hoseïn Vâʿez Kâchefî, auteur de *Mahmoûd ou-Ayâz;* Binâï, de Hérat, qui a toutefois mieux réussi avec ses ghazals, et le célèbre Kâsimol-Anvâr, qui écrivait, soit dans le dialecte persan du Gulân, soit en turc : les mèsnévîs de Mîr ʿAlî Chîr sont également en turc.

L'apologue.

Cheïkhoum Soheïlî[2], dit aussi Cheïkhoum Beg, protégé de Aboû Saʿîd et de Hoseïn Baykara, a traduit Bidpaï. C'était un poète de talent, mais il avait la manie de décrire des scènes terrifiantes. Seïfî Bokharî[3], personnage singulier qui vivait aussi sous Hoseïn Baykara, et qui, tout en posant au Mollâ, était un ivrogne éhonté, querelleur et brutal, a écrit beaucoup

(1) *Op. cit.*, p. 459.
(2) *Op. cit.*, p. 457.
(3) *Op. cit.*, p. 438, 458.

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d'apologues, sans parler de son Divan et de ses poésies didactiques. Mais ni l'un ni l'autre n'ont obtenu la réputation de Hoseïn Vâ'ez Kâchèfî, de son véritable nom Kèmâlod-Dîn, mort en 910 (1504-1505). Littérateur apprécié et savant universel, à la fois théologien érudit et éloquent (il devait son surnom de « Vâ'ez » au fait qu'il était prédicateur de profession), traditionniste, astronome, versé dans les sciences les plus variées, il doit sa célébrité surtout à la rédaction versifiée du livre de *Kalîla et Dimna* qu'il a intitulée *Anvâr-é Soheïlî* « Les rayons de Canope », et dans laquelle un style fleuri et des métaphores continuelles ont complètement défiguré le texte original. Les *Anvâr-é Soheïlî*, devenus classiques en Europe et dans l'Inde pour l'enseignement du persan, sont le modèle le plus typique de la littérature d'alors[1].

Le ghazal.

Le ghazal, poésie amoureuse toujours très courte[2] : elle ne peut avoir que cinq, sept ou neuf distiques, est un genre très en faveur chez les poètes persans. Âhî, qui vivait à la fin du règne de Hoseïn Baykara, y excellait; deux de ses contemporains dont nous avons déjà eu l'occasion de parler, Mohammed Sâlih et Hèlâlî, se sont fait une réputation avec leurs ghazals : mais, chez le premier, le style n'est pas toujours à la hauteur des idées; chez le second, au contraire, la forme l'emporte sur le fond. Châh Hoseïn Kâmî, leur contemporain, devait sa réputation à ses ghazals, de même que Âsaf Asafî et que Binâï de Hérat. Ce dernier, auquel on doit encore un Divan et plu-

[1] Cf. Browne, *Literary History of Persia*, II, p. 350-353, et *op. cit.*, p. 441-443, 503-504.

[2] La réunion des ghazals d'un poète, disposés d'après l'ordre alphabétique des rimes, constitue le Divan. Cf. Garcin de Tassy, *op. cit.*, p. 373, et du même auteur, *Histoire de la littérature hindoustanie*, 2e éd., I, p. 31.

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sieurs mèsnévis, s'adonna sur le tard à la musique, et devint un remarquable compositeur. Railleur et caustique, ennemi de Mîr ʿAlî Chîr, il endura beaucoup de persécutions et dut se réfugier, en ʿIrâk et en Azerbâïdjân, auprès de Yaʿkoûb Beg : celui-ci étant mort, Binâï revint à Hérat.

La satire.

Le sultan Bâber s'était longtemps adonné à la satire; il y renonça à la suite d'une grave maladie dans laquelle il voyait un châtiment divin. « Je me remis donc de plus belle, dit-il, à implorer la miséricorde divine et à solliciter mon pardon, et, résolu à détourner mon esprit de ces pensées frivoles et de ces habitudes malsaines, je pris le parti de briser ma plume[1]. »

La poésie didactique.

Seïfî Bokhârî a laissé, entre autres ouvrages, des poèmes dans lesquels il décrit tous les métiers de son temps.

Les énigmes[2].

Le goût de la recherche et des subtilités, qui caractérise l'époque timouride, avait donné beaucoup de vogue aux énigmes. Djâmî lui-même en composait. Il en était de même de Cheref ed-Dîn Alî Yezdî, l'historien de Timour. Mîr Hoseïn, dont les contemporains parlent comme d'un homme simple et inoffensif, ne fit jamais autre chose, et mérita ainsi le surnom de Mouʿammâï. Un familier de Bâbèr, Mollâ Mohammed Ba-

[1] *Mémoires*, trad. Pavet de Courteille, II, 134; trad. Beveridge, II, 449-450.

[2] C'est ainsi que l'on rend d'ordinaire le terme *mouʿammâ* : Garcin de Tassy (*op. cit.*, 165-169 et 193-195) préférerait le traduire par « logogriphe »; pour lui l'énigme, au sens propre du mot, est le *loughz*.

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dakhchî, a laissé aussi un recueil d'énigmes; ce fut son seul ouvrage.

Correspondance.

Parmi les œuvres de Djâmî on trouve un recueil de lettres; des Manuels de correspondance ont été écrits par Khâdjè ʿAbdollâh Morvârîd Bèyânî, connu à la fois comme prosateur et comme poète, et par l'historien Moʿîn ed-Dîn Mohammed d'Isfizâr.

Prosodie.

Djâmî a écrit sur cette matière, qui était un objet de prédilection pour Bâber : ce souverain a consacré tant à la prosodie qu'à la rime, plusieurs traités, dont le *Mufassil* « Détaillé » est le meilleur. Son contemporain, Hèlâlî, passait pour la plus grande autorité d'alors, et son érudition était prodigieuse; mais on lui reprochait de ne citer, comme exemples, que des vers de sa composition. Par contre, le traité de Seïfî Bokhârâ était fort peu estimé. Mîr ʿAtâollâh de Mechhed, qui écrivait d'ordinaire en arabe, a composé en persan son traité sur la rime.

Rhétorique.

Sous le règne de Sultân Hoseïn Baykara, Mevlânâ Cheikh Hoseïn y excellait. Nous verrons qu'il était également philosophe et logicien. Ses œuvres étaient des modèles de concision, et, dès le règne de Aboû Saʿîd, elles faisaient autorité. Inspecteur de police, Mevlânâ Cheikh Hoseïn était parvenu à une haute situation.

Critique textuelle.

Le fils de Châhroukh, Baysonkor, fit entreprendre une édition critique du Châh-Nâmè de Firdoousî; il est lui-même

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l'auteur de la plus longue des deux préfaces qui ont été écrites pour ce poème[1].

Les philosophes.

Djâmî, qui n'est resté étranger à aucune branche du savoir humain, s'est fait connaître comme philosophe et comme moraliste. Sous le règne de Sultân Hoseïn Baykara, le philosophe le plus réputé était Djelâl ed-Dîn, né en 830 (1426) au village de Davân, dans le Fârs, où il mourut en 908 (1502). Fils de cadi, cadi lui-même, il enseigna, pendant la plus grande partie de son existence, à la medrèsè des Orphelins de Chîrâz. On lui doit la «Morale Djelalienne», *Akhlâk-é Djelâlî*, dont nous reparlerons[2]. Le philosophe Aboû'l-Bakâ était l'ami de Bâber, qui en fait grand éloge[3]. Connu à divers titres, Mîr Mourtâz était à la fois métaphysicien, ascète et joueur d'échecs passionné. Quant à Mevlânâ Cheikh Hoseïn, sa spécialité était la logique.

Les moralistes.

Deux traités de philosophie pratique composés sous le règne de Hoseïn Baykara ont eu une vogue extraordinaire en Orient et aussi en Europe, où on les a adoptés comme textes d'enseignement et traduits en anglais. Ce sont la «Morale Djelâlienne», *Akhlâk-é Djelâlî*, composée entre 1467 et 1477 et dédiée à Ouzoun Hasan par Djelâl ed-Dîn Davânî, dont nous venons de parler, et la «Morale mouhsinienne», *Akhlâk-é Mouhsinî*, dédiée à Hoseïn Baykara, en 900 (1494-1495), par Hoseïn Vâ'ez Kâchefî. Ces deux ouvrages sont écrits dans un style très fleuri, et leur réputation semble quelque peu sur-

(1) Cl. Huart, *Encycl. de l'Islam*, I, 609.
(2) Browne, *op. cit.*, 442.
(3) *Mémoires*, trad. Pavet de Courteille, II, 463.

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faite[1]. Mevlânâ Kemâl ed-Dîn Hoseïn a laissé de nombreux traités de morale. Mîr ʿAlî Chîr est, lui aussi, l'un des plus remarquables moralistes d'alors : nous examinerons ses travaux en abordant la littérature turque. N'oublions pas Djâmî, dont le *Behâristân* est un excellent ouvrage de philosophie pratique.

Les historiens.

Aux débuts de l'époque timouride se rattache le seul historien de Timour qui ait été, du moins à notre connaissance, son contemporain : Mevlânâ Nizâmod-Dîn Châmî[2], qui, fait prisonnier à Alep par Timour, en 803 (1400-1401), recevait de ce souverain, trois ans plus tard, l'ordre d'écrire l'histoire de son règne. Écrite d'après les documents officiels, cette histoire, intitulée *Zafer-Nâmè* « Le Livre de la victoire », s'arrête avec l'année 806 (1404), quelque temps avant la mort de Timour, survenue le 19 mars 1405. Le style en est simple, et l'auteur a préféré la clarté et la concision à la recherche.

Bien différente est l'histoire de Timour, portant le même titre, que composa en 828 (1424-1425), Cheref ed-Dîn ʿAlî Yezdî[3]. L'auteur, qui était poète, et comme tel s'était fait une spécialité des énigmes, abuse des ornements, et cite à tout propos des versets du Coran et des poésies. Malgré ses défauts, son livre a presque fait oublier celui de Mevlânâ Nizâmod-Dîn Châmî; il est vrai qu'il a, sur lui, l'avantage d'être plus complet, allant jusqu'à la fin du règne de Timour. Il a été traduit en français par Pétis de la Croix, en 1722, en anglais par J. Darby, l'année suivante.

Châhroukh s'intéressait particulièrement aux études histo-

(1) Browne, *op. cit.*, 442-444.
(2) Browne, *op. cit.*, 361-362.
(3) *Op. cit.*, 362-365.

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riques. Nous avons un « Abrégé des chroniques dédié à Mo'în ed-Dounyâ vé-'d-Dîn », *Montakhâbot-Tévârîkh Mo'înî*, qu'écrivit pour lui un auteur anonyme, au début de son règne[1], un *Zéil Djâmi'ot-Tévârîkh* « Appendice à la Réunion des chroniques », destiné à compléter l'ouvrage dont le *Montakhâb* est le résumé[2], également sans nom d'auteur, un *Mo'ezzol-Ansâb*[3] « Celui qui respecte les généalogies », rédigé par son ordre en 830 (1426-1427) et continué jusqu'au règne de Badî'oz-Zémân par des historiens anonymes, ouvrages précieux pour l'histoire de Timour et de sa dynastie. Le fils de Châhroukh, Olough Beg, fit plus que favoriser les études historiques : il a lui-même écrit l'histoire des quatre tribus, *oulous*, issues de Djenguiz Khan, *Oulous-é Arbé'éyé-Tchinguizî*[4].

Hâfiz Âbroû est l'un des meilleurs historiens persans, et nous devons regretter, avec M. Browne[5], que ses ouvrages, clairs, simples, bien écrits et remplis de renseignements précieux, soient encore inédits. Une partie seulement en a été conservée : il ne reste que les deux premières sections de la *Zobdatot-Tévârîkh* « Crème des chroniques », histoire universelle achevée en 829 ou en 830 (1426-1427) : les deux dernières traitaient des dynasties persanes postérieures à la conquête musulmane; et que le premier volume d'un grand ouvrage historique écrit, quelques années plus tôt, sur l'ordre de Châhroukh. Né à Hérat, et élevé à Hamadân, Hâfiz Âbroû avait accompagné Timour dans ses campagnes; il serait mort en 833 (1429-1430).

Fasîhî de Khwâf[6], né vers 777 (1375-1376), acheva son

(1) Blochet, *Introduction à l'histoire des Mongols*, 73 et suiv.
(2) *Op. cit.*, 72.
(3) *Op. cit.*, 86.
(4) *Ibid.*
(5) Browne, *op. cit.*, 424-426 et 430.
(6) *Op. cit.*, 426-428.

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Modjmel « Résumé », autre histoire générale allant des origines à l'époque où écrivait l'auteur, en 845 (1441-1442) : cette année même il tomba en disgrâce, après avoir parcouru une brillante carrière dans l'administration des finances, pour avoir offensé Gauher Châd Agha. La conclusion de ce livre ne nous est pas parvenue : elle était consacrée à la ville d'Hérat et à l'histoire antéislamique. Dans le *Muséon* de 1915, M. Browne a consacré une importante notice à cet ouvrage, dont il n'existe que trois manuscrits.

Kemal ed-Dîn ʿAbdor-Razzâk[1] était le fils d'un juge et imam militaire de Samarkand : de là son surnom de Samarkandî, mais était né à Hérat. A l'âge de vingt-cinq ans, ʿAbdor-Razzâk succéda à son père, ayant attiré l'attention de Châhroukh par sa science grammaticale. Il fut ensuite envoyé en ambassade auprès du roi de Bîdjânagar, dans l'Inde, fut chargé de mission au Guîlân et, après la mort de Aboû Saʿîd, se retira dans un couvent d'Hérat, où il finit ses jours en 887 (1482). Il n'a laissé qu'un grand ouvrage, la *Matlaʿos-Saʿdèin* « Conjonction des deux bonheurs », histoire allant de la mort du dernier souverain mongol de Perse, Aboû Saʿîd, à celle du souverain timouride portant le même nom, et embrassant, de la sorte, une période de 170 ans. Bien qu'elle soit basée en grande partie sur Hâfiz Abroû, elle a une importance réelle.

Moʿîn ed-Dîn Mohammed d'Isfizâr[2], poète et auteur d'un traité de correspondance diplomatique, doit surtout sa réputation à une précieuse histoire d'Hérat, *Roouzatod-Djannat fî Tarîkh Madînat Hérât* « Le Jardin du paradis : Histoire de la ville d'Hérat », écrite pour Hoseïn Baykara et traduite par Barbier de Meynard dans le *Journal asiatique*.

Mîrkhond, de son vrai nom Mohammed ibn Khâvandchâh

[1] *Op. cit.*, 428-430.
[2] *Op. cit.*, 430-431.

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ibn Mahmoûd[1], le plus connu des historiens persans; on l'a souvent publié et traduit; mais sa réputation est surfaite. Son *Roouzat os-Safâ* «Jardin de la pureté», histoire générale musulmane, est, dit M. Browne, une compilation bizarre et médiocre qui ne dispense pas de recourir aux sources, écrite dans un style fleuri, prétentieux, assez ridicule. Il en existe un supplément, fait au XIX^e^ siècle par Rizâ Kouli Khan Lâlâ Bachi, qui est un bon et utile ouvrage. Fils d'un notable de Bokharâ, Seyyed Borhân ed-Dîn, émigré à Balkh où il mourut, Mirkhond, devenu le protégé de Mîr ʿAlî Chîr, habita presque toujours Hérat, où il mourut, âgé de soixante-six ans, le 2 dhoû'l-kaʿda 903 (22 juin 1498). Son ouvrage est divisé en sept livres : 1° Patriarches, prophètes et rois de Perse avant l'Islam; 2° Mohammed et les premiers khalifes; 3° Les douze imams, les Omeyyades et les Abbasides; 4° Dynasties musulmanes de Perse jusqu'à Timour; 5° Mongols et Tartares après Timour; 6° Timour et ses successeurs jusqu'en 873 (1468-1469); 7° Les Timourides jusqu'à la mort de Hoseïn Baykara; ce dernier livre a été vraisemblablement continué par Khondémîr et il forme, avec le sixième, la partie la plus importante de l'ouvrage.

Khondémîr, ou plus exactement Khwândémîr[2], était le petit-fils et le disciple de Mirkhond et, comme lui, le protégé de Mîr ʿAlî Chîr. Il débuta en 905 (1499-1500) avec sa *Khoulâsatol-Akhbâr* «Quintessence des informations», abrégé de l'œuvre de son grand-père. Mais son ouvrage capital est le *Habîbos-Siyèr* «Ami des biographies», écrit au plus tôt, en 929 (1523), recueil précieux pour l'époque des Timourides et des premiers Séfévis. Khondémîr mourut en 929 (1534-1535).

[1] *Op. cit.*, 431-433.
[2] *Op. cit.*, 434.

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Les biographes.

Nous devons à Djâmî un recueil de biographies de soufis célèbres des deux sexes : les *Nafahâtol-Ons* «Souffles de l'amitié». Cet ouvrage, écrit avec sincérité et sans recherche, contient 611 notices disposées par ordre chronologique, précédées d'une introduction de 34 pages sur le Soufisme. Dans le *Behâristân* du même auteur on trouve deux chapitres consacrés aux biographies : 1° des saints; 2° des poètes [1].

Mais nous avons, sur ces derniers, un travail beaucoup plus complet : c'est le *Tèzkéréyé-Choʿarâ* «Mémorial des poètes», écrit en 892 (1487) [2] par Dooulètchâh, que Mîr ʿAlî Chîr décrit comme un pieux ascète et un grand travailleur, ayant renoncé au monde pour se consacrer à ses travaux littéraires. Dooulètchâh avait environ cinquante ans quand il composa son ouvrage, qui a été édité par les soins de M. Browne; il mourut huit ans plus tard. Le «Mémorial» comprend une introduction sur la poésie, sept chapitres consacrés à autant de générations, *tabakât*, de poètes; et une conclusion qui est le panégyrique de Hoseïn Baykara. Nous parlerons plus loin des *Médjâlisun-Nefâïs* de Mîr ʿAlî Chîr, sur le même sujet.

Les *Médjâlisol-ʿOchchâk* «Assemblées des Amants» [3], passent pour être de Hoseïn Baykara, bien que Bâber les attribue à un soi-disant soufi protégé par Mir ʿAlî Chîr, Kemâl ed-Dîn Hoseïn Gâzargâhi. Cet ouvrage bizarre, précédé d'une introduction sur l'amour, avec citations de poètes mystiques, comprend 76 biographies de saints et de rois, avec des épisodes amoureux à l'occasion. Il a été lithographié à Lucknow, et l'Université de Cambridge en possède le seul manuscrit connu.

(1) *Op. cit.*, 435-436.
(2) *Op. cit.*, 436.
(3) *Op. cit.*, 439-440.

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Hoseïn Vâ'èz Kâchefî a consacré aux persécutions des prophètes et des imams, à celles de Hoseïn en particulier, un *Roouzatoch-Chohadâ* « Jardin des Martyrs »[1]. Son fils, Fakhrod-Dîn 'Alî, a parlé de la vie, des miracles, des disciples et des prédécesseurs de Khodja Ahrâr Nakchbèndî, dans ses *Rachahât-é 'Aïnol-Hayât* « Gouttes de la source de la vie »[2]. Seule une traduction turque de cet ouvrage a été publiée; l'original persan est conservé au British Museum.

Mevlânâ Mo'ayyen de Ferrâh, mort en 916 (1510), a, de son côté, écrit les vies du Prophète et des grands personnages de l'Islam.

LA LITTÉRATURE TURQUE.

Très cultivé aujourd'hui en Asie centrale, le persan l'était encore plus au moyen âge, et faisait dédaigner la littérature en *turki*, ou turc oriental, dont l'essor ne date que de l'époque timouride. Ce fut Mîr 'Alî Chîr qui eut le mérite de faire définitivement du turki, sous le règne de Sultan Hoseïn Baykara, une langue littéraire. Il fut lui-même le plus grand des écrivains turcs. A côté de lui se place le sultan Bâbèr, dont les Mémoires ont, au point de vue littéraire comme au point de vue historique, une importance de premier ordre.

Mîr 'Alî Chîr.

La vie et l'œuvre du créateur de la littérature turque ont été étudiées en détail par Eugène Belin, dans le *Journal asiatique* de 1861[3] et de 1866[4]. Nous résumerons ici les notices qu'il leur consacre.

[1] *Op. cit.*, 441.

[2] *Op. cit.*, 441-442.

[3] T. XVII, p. 175-256 et 281-357 : *Notice biographique et littéraire sur Mir Ali Chir Névaï, suivie d'extraits des œuvres du même auteur.*

[4] T. VII, p. 523-552, et t. VIII, p. 126-154 : *Moralistes orientaux. Carac-*

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Mîr ʿAlî Chîr était né à Ḫérat en 844 (1440-1441). Le nom de Chîr « lion » qui lui fut donné est une allusion au khalife ʿAlî, « le lion d'Allâh », et montre qu'il était Chiite. Selon l'usage d'alors, il prit des *tekhellous* ou surnoms littéraires : dans ses poésies turques il se nomme Névâï; dans ses poésies persanes, Fénâyî ou plutôt Fânî. Sa famille était au service des Timourides, et notamment des descendants de ʿOmar Cheikh; son père, Kèdjkina Bahâdour, avait joué un rôle important à la cour de Abou Saʿîd et à celle de Bâbèr. On trouvait, parmi ses parents, de hauts dignitaires, des guerriers et des littérateurs, comme ses oncles paternels Mîr Saʿîd Kâboulî, très en vue à la cour de Aboû Saʿîd, et Mohammed ʿAlî Ghourbetî, brillant poète persan et turc, musicien et chanteur apprécié de Hoseïn Baykara, et Mîr Haïder Saboûhî, successivement littérateur, guerrier et ascète. Mîr ʿAlî Chîr fut, dans son enfance, le condisciple de Hoseïn Baykara : tous les deux, ils se promirent alors une amitié à laquelle ils restèrent fidèles.

Châhroukh étant mort, la famille de Mîr ʿAlî Chîr, qui avait alors six ans, émigra en Irâk, où elle fut en rapports avec le célèbre historien Chèréf ed-Dîn ʿAlî Yezdî. Kedjkina Bahâdour voyant les belles dispositions de son fils, lui fit donner une éducation aussi complète que possible.

Mîr ʿAlî Chîr servit d'abord Aboû'l-Kâsim Bâber et, après la mort de celui-ci, Aboû Saʿîd. Disgracié, il alla à Samarkand étudier la jurisprudence et la théologie. Dès son avènement, Hoseïn Baykara le prit pour garde des sceaux, et lui conféra, trois ans plus tard, le titre d'émir avec prééminence sur tous les autres dignitaires ayant ce titre, le seul Mozaffèr ed-Dîn Berlâs excepté. Simple et modeste, Mîr ʿAlî Chîr qui, tout en restant l'ami et le conseiller écouté du souverain, ne voulait

tère, maximes et pensées de Mir Ali Chir Névaïi. Voir aussi Browne, *op. cit.*, 505-506.

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avoir aucun titre officiel, avait vainement refusé cette distinction. En 881 (1476-1477) il obtenait de quitter le pouvoir pour se consacrer entièrement à la religion et à ses travaux littéraires; mais les évènements l'obligèrent, plus d'une fois, à occuper de nouvelles charges ou à remplir, toujours avec succès, des missions difficiles, soit politiques, soit militaires. Gouverneur d'Hérat en 884 (1479-1480), du Djordjân huit ans plus tard, il n'eut pas de peine à se justifier des accusations que portaient contre lui des ennemis acharnés comme le vizir Khodja Médjîd ed-Dîn, organisa en 903 (1497-1498) la défense d'Hérat et, par ses efforts, amena la réconciliation de Hoseïn Baykara avec son fils révolté, Badi'oz-Zémân. L'année suivante il demandait à faire le pèlerinage, mais les circonstances ne permirent pas de donner suite à sa requête.

Le travail et les austérités avaient ruiné la santé de Mîr 'Alî Chîr. Quand Hoseïn Baykara rentra à Hérat, il voulut aller au devant de lui, mais tomba de faiblesse en le voyant. Mal soigné par ses médecins, il succombait quelques jours plus tard, le 12 djoumâdhâ II 906 (4 janvier 1501). Des funérailles solennelles lui furent faites; le souverain lui-même présida le service funèbre, et il fut inhumé dans la grande mosquée qu'il avait construite à Hérat.

Modeste, bienfaisant et désintéressé, Mîr 'Alî Chîr, qui refusait titres et charges, n'accepta jamais aucune pension, et dépensait ses revenus en libéralités et en bonnes œuvres de toute sorte. Il fit construire ou restaurer à ses frais un grand nombre d'établissements religieux ou philanthropiques : 370 dont 90 hôtelleries ou *ribât,* assure-t-on, en Khorassan. A Hérat il avait fait construire une mosquée et une medrèsè, ou école supérieure, avec couvent, hôpital et bains, sur des terrains que lui avait donnés Hoseïn Baykara, et déploya beaucoup de zèle pour répandre l'instruction. Ses contemporains en parlent comme d'un homme distingué, courtois et élégant

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dont ni le bonheur ni l'adversité ne pouvaient altérer le caractère; Sâm Mîrzâ renonce à faire l'éloge de celui qu'il appelle «le bienfaiteur de l'humanité et le confident intime du roi». Administrateur et homme d'État de premier ordre, savant et artiste, versé dans la théologie et le droit, il était également peintre, sculpteur, calligraphe, enlumineur de manuscrits et musicien réputé, grand bibliophile, protecteur des littérateurs, des artistes et des érudits, de Djâmi, de Mîrkhond, de Khondémîr en particulier. Il fut surtout un grand écrivain qui traitait avec le même bonheur, la poésie et la philosophie, l'histoire et la morale. Ses maîtres préférés étaient Khosrô, Nizâmi et sustout Djâmî, pour lequel il avait une vénération sans bornes : dans ses *Médjâlisun-Néfâïs* il n'a pas osé, par humilité, faire la biographie de ce maître et s'est contenté de mentionner son nom «pour attirer sur son œuvre la bénédiction divine»; mais plein de douleur à sa mort, il rassembla les souvenirs qu'il en conservait dans son ouvrage dont nous parlerons plus loin. Clair et précis, il est d'une concision rare de son temps, et c'est en turc, sa langue maternelle, que le patriotisme lui faisait préférer et dont il fit une langue littéraire, qu'il a donné toute la mesure de son talent.

Réunies et classées à la fin de son existence, et sur la demande de Hoseïn Baykara, les poésies turques de Mîr Alî Chîr forment quatre Divans : le titre de chacun d'eux indique l'époque à laquelle il fut composé :

Gharâebous-Seghr «Les Étrangetés de l'Enfance»;
Névâdiruch-Chébâb «Les Raretés de la Jeunesse»;
Bédâ'eˁoul-Vésat «Les Merveilles de l'Age mûr»;
Févâedoul-Kibèr «Les Utilités de la Vieillesse».

L'œuvre poétique de Mîr ˁAlî Chîr comprend encore des romans : *Ferhâd et Chîrîn, Leïlâ et Medjnoûn;* l'Histoire, *Kissè,* de Cheikh Sanˁân; *Seba-i Seyyârè* «Les Sept planètes», ou la

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vie du roi Bahrâm Goûr; des traductions ou des imitations turques des mystiques persans, comme le *Mahboûboul-Kouloûb* « Aimé des cœurs », imité de l'*Anîsol-Koloûb* de Mîr Khosrô; cet ouvrage a été publié à Constantinople en 1289 (1872-1873) et a servi de base à l'étude de Belin sur les moralistes orientaux, la *Lisânout-Taïr* « Langue des Oiseaux », traduction du *Mantikot-Taïr*, le célèbre ouvrage de Férîd ed-Dîn ʿAttâr, et le *Haïrètul-Ebrâr* « Étonnement des gens pieux », dont la matière a été empruntée à divers auteurs; un recueil de poésies mystiques, *Makhzénul-Esrâr* « Le Trésor des Secrets », et des commentaires en vers d'ouvrages religieux. Historien, Mîr ʿAlî Chîr a écrit une Histoire des rois de Perse et une Vie d'Alexandre; biographe, il a laissé deux œuvres de premier ordre, déjà connues de nos lecteurs : le *Khamsétul-Mutèhayyirîn* « Quintuple Étonnement », recueil de ses souvenirs sur Djâmî, et les *Medjâlisun-Néfâïs* « Assemblées où l'on parle des choses précieuses », ou biographies des poètes de son temps; il a de plus traduit en turc et complété les *Nafahâtol-Ons* de Djâmî. Son œuvre en prose comprend enfin des traités de rédaction et de prosodie, et le *Mohâkémètul-Loughètèin* « Débat des deux langues », écrit un an avant sa mort, et dans lequel il s'attache à démontrer la supériorité du turc, sa langue maternelle, sur le persan. Dans le *Journal asiatique* de 1902 [1], nous avons étudié cet ouvrage; résumons-en ici les données essentielles. Le *turkî*, ou turc oriental, est plus facile à comprendre, plus clair, plus précis que le *sarte* ou persan; son vocabulaire est plus riche, sa flexion plus souple, sa prononciation plus douce. Il se prête mieux aux allitérations et aux jeux de mots si appréciés des Orientaux; il est concis comme l'arabe, et a, tant pour former de nouveaux mots que pour rendre les moindres nuances d'une idée, des ressources que l'on ne

[1] T. XIX, p. 367-372.

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retrouve pas dans d'autres langues. Cet ardent plaidoyer se termine par l'éloge de la littérature *turkî*, qui date de quarante ans à peine, et compte de nombreux et remarquables représentants, et de son digne protecteur, le sultan Hoseïn Baykara. Dans son enthousiasme, l'auteur a commis des erreurs et des injustices, il a parfois exagéré les défauts du persan et méconnu ses qualités, mais le mépris injustifié qu'avaient ses compatriotes pour leur propre langue sera pour lui une excuse.

Le sultan Bâber [1].

Zahîr ed-Dîr Mohammed, plus connu sous le nom de Bâber, ne fut pas seulement le conquérant de l'Inde et le fondateur de la dynastie dite des Grands-Mogols qui devait régner à Delhi pendant plusieurs siècles; il fut aussi un lettré écrivant avec une égale facilité en persan et en turc, qui, au cours d'une existence mouvementée, put écrire un Divan turc « plein d'idées les plus neuves », disaient les connaisseurs, un recueil de mèsnévîs, le *Mubîn* « Évident »; une rédaction versifiée d'un traité mystique de Khodja Ahrâr, la *Validiyè*, plusieurs traités sur la prosodie et la rime, et enfin ces admirables Mémoires, dont le vrai titre est *Bâbèr-Nâmè* « Livre de Bâber », si précieux pour l'histoire des derniers souverains timourides. On peut leur reprocher quelques inégalités dans le style, provenant de ce que l'auteur dictait ses souvenirs à trois secrétaires différents, et aussi quelques lacunes provenant, soit de la vie aven-

[1] Browne, *op. cit.*, 452-460; cf. la notice de M. Cl. Huart dans l'*Encyclopédie de l'Islam*, I, 558. Le meilleur ouvrage européen à consulter sur Bâber est, de l'avis de M. Browne, celui de W. Erskine, *History of India under the first Sovereigns of the House of Taimur, Bâber and Humayún*, London, 1854, 2 vol. in-8°. Mme Beveridge a publié, de 1912 à 1921, une excellente traduction annotée des Mémoires de Bâber; cette traduction, pourvue d'index détaillés, a été précédée d'une longue série d'études; on doit également à M. H. Beveridge d'importants travaux sur Baber.

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tureuse qu'il menait, soit du désir de passer sous silence des faits peu flatteurs; mais cette autobiographie pleine de sincérité, dit M. Browne, écrite d'un ton familier, simple et plein de vie, fait connaître à la fois la vie et les pensées intimes d'un grand souverain, et il faut y voir plutôt des confessions que des mémoires. Elle contient, avec des descriptions minutieuses et exactes de toutes choses, de tous les pays visités, des pages importantes sur la cour littéraire de Hoseïn Baykara, et des renseignements biographiques précieux.

Leyden et Erskine firent connaître en Europe les Mémoires de Bâber par leur traduction anglaise publiée en 1826 et faite, non point sur l'original, mais sur la version persane entreprise par Abder-Rahîm Mirzâ Khân, sur l'ordre de l'empereur Akbar, et connue sous le titre de *Vaki'ât* (ou *Tuzuk*) *-e Bâbèrî*, en 1590. Le texte turc était publié à Kazan par Ilminski, en 1857; Pavet de Courteille en donnait la traduction française en 1871. M^me^ Annette Beveridge, qui, depuis une vingtaine d'années, se livre à une étude spéciale de ce texte, lui a consacré plusieurs mémoires dans le *Journal of the Royal Asiatic Society* [1], a donné dans le *E. J. W. Gibb Memorial* une reproduction fac-similé, accompagnée de deux index, de l'important manuscrit de Sir Salar Jang de Haïderabad, et en a publié, en 1921, la traduction anglaise.

Une brève analyse de ces Mémoires en montrera la variété et l'intérêt. Dans le premier chapitre, Bâbèr déclare que, par la grâce d'Allâh, du Prophète et des quatre khalifes orthodoxes, il devint roi du Ferghana à l'âge de douze ans, le mardi 5 ramadan 899 (10 juin 1494), et passe à la description de son royaume, suivie de la biographie de son père, 'Omar Cheikh, de celle de Sultân Ahmed qui mourut la même année. Le règne de Sultân Mahmoûd est raconté dans le cha-

[1] Années 1902, 1905 et 1906.

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pitre suivant; les expéditions de Hoseïn Baykara et de Baysonkor font l'objet du troisième et du quatrième.

Avec le cinquième commence la carrière militaire de Bâber qui assiège et prend Samarkand, succès bientôt compensé, d'ailleurs, par la perte d'Endidjân. Samarkand, dont une description minutieuse est donnée, sera du reste ardemment disputée; Mohammed Cheïbânî obligera Bâber de l'évacuer et de se réfugier à Tachkent auprès du khan de la ville, son grand-père. De curieux détails sont donnés sur les hommes et les choses que vit Bâber, ainsi que sur l'organisation militaire des Mongols.

De nouvelles expéditions ont bientôt lieu; Bâber ne cache rien de ses échecs et de la misère qu'il connut dans le Khorassan, où il s'était réfugié. La fortune, cependant, finit par lui sourire; le clan mongol se joint à lui, de même que Khosrev Châh; avec leur aide, il va s'emparer de Kaboul. Le récit de cette expédition et la description de l'Afghanistan occupent le onzième chapitre. Le douzième parle de l'expédition de Kandahâr, du congédiement d'un serviteur ingrat, Bâkî Djaghanyânî, qui s'en va dans l'Inde; de là il passe au règne de Hoseïn Baykara, qui mourut à ce moment, en 911 (1505-1506), à sa famille, à ses émirs, aux littérateurs, savants et artistes, Mîr ʿAlî Chîr notamment, qui fréquentaient sa cour.

Diverses expéditions en Afghanistan ou en Khorassan, des luttes continuelles contre Cheïbânî, qui prend Hérat et Kandahar, mais doit évacuer cette dernière ville, l'envoi, fait en pure perte, d'une ambassade dans l'Inde pour réclamer des territoires ayant appartenu aux Timourides, une visite à Lemgân, le tout entremêlé de détails de mœurs, de récits de scènes d'ivrognerie par exemple, d'appréciations très sévères sur les Indiens et les Afghans, sont l'objet des chapitres XIII à XVII. Les cinq derniers sont consacrés à la conquête de l'Inde, à la description de ce pays et aux mœurs et coutumes de ses

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habitants (très dur pour les Indiens, Bâber ne leur reconnaît ni intelligence, ni grâce, ni élégance, ni esprit pratique), à la conversion de Bâber, qui renonça au vin et à la poésie satirique, à l'organisation de ses nouveaux États et au partage des trésors conquis entre les membres de sa famille. Sa mort, survenue près d'Agra le 6 djoumâdhâ Ier 937 (26 décembre 1530), l'empêcha de mettre la dernière main à ces Mémoires, dont le chapitre final ne comprend que quelques lignes.

Un cousin de Bâber, Mîrzâ Haïdèr Doughlat, a laissé, sous le titre de *Tarîkh-é Rachîdî*, d'importants mémoires qui permettent de compléter et de contrôler ceux du conquérant de l'Inde. Publiés, avec des notes, par M. Ney Elias en 1898, ils ont été traduits en anglais par Sir Denison Ross.

La rivalité du persan et du turc.

Les khalifes arabes, dit Mîr ʿAlî Chîr dans la conclusion du «Débat des deux langues», ont protégé les poètes de leur nation; après eux les sultans sartes ont favorisé les poètes persans. Les khans turcs, leurs successeurs, ont, à leur tour, encouragé les poètes de langue turque, dont les premiers firent leur apparition sous le règne de Châhroukh. Hoseïn Baykara, tout en favorisant les lettrés persans, ne cachait pas sa préférence pour ceux qui écrivaient en turc; il composait lui-même dans cette langue des vers que Mîr ʿAlî Chîr déclarait supérieurs à ses propres vers. Parmi les plus brillants poètes turcs de la cour de Hérat, le «Débat des deux langues» nomme Sekkâkî, Haïder, Khârezmî, ʿAtaï, Moukîmî, Yakînî, *Emîrî et Kedâï*. ʿAbdollâh-é Morvârîd, garde des sceaux et émir sous Hoseïn Baykara, a laissé des odes, des ghazals et des quatrains très estimés. Il mourut en 922 (1516) sans avoir pu achever son «Histoire royale», *Tārîkh-é Châhî*, et son

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roman de Khosrô et Chîrîn[1]. Mohammed ʿAlî Ghourbètî et Mîr Haïder Saboûhî, parents de Mîr ʿAlî Chîr, jouissaient d'une réputation méritée, de même que Sourkh Vidâʾî, le familier de Bâber. Mohammed Sâleh, qui passa une grande partie de sa vie chez les Uzbeks, a célébré leurs exploits dans la «Cheïbaniade», *Cheïbânî-Nâmè*, épopée en 76 chants, publiée par Vambéry avec une traduction allemande et des notes (Vienne, 1885) : le texte en a été réédité à Saint-Pétersbourg par MM. Melioransky et Samoïlovitch (1908). Mohammed Saleh a composé de plus un Mèsnévî, beaucoup moins estimé. C'est en turc que le grand mystique Kâsimol-Envâr a composé une partie de ses poèmes.

Mais l'Asie centrale devait à la Perse sa culture, et, quels que fussent leurs efforts, Mîr ʿAlî Chîr, Hoseïn Baykara et leurs émules ne purent se soustraire à l'emprise iranienne. Leurs poésies turques sont composées sur des modèles persans; ils ont fait plus, et une grande partie de leurs œuvres poétiques sont en persan. Nous reproduirons ici les lignes dans lesquelles Pavet de Courteille apprécie Mîr Haïder Medjzoûb, poète de talent qui laissa un *Makhzen* «Trésor» dont Pavet de Courteille a donné des extraits à la fin de son édition du *Miʿrâdj-Nâmè*[2] : ce qu'il dit de cet auteur s'applique également à ses contemporains :

«...Je n'hésite même pas à déclarer que pour nous le poème de Mîr Haïder n'a qu'un intérêt secondaire, quant au fond qui est tout à fait persan pour les idées, les tendances mystiques, les comparaisons, le style enfin; mais l'auteur, s'il

[1] Cl. Huart, *Les calligraphes*, 100-101.

[2] P. 55-95 du texte et 54-72 de la traduction; la citation que nous donnons ici est empruntée à la préface, p. xxix-xxxi. Mîr Haïder, surnommé Medjzoûb «L'extatique», mourut avant 1490, et nous ne savons à peu près rien de son existence. Il ne doit pas être confondu avec le parent de Mîr ʿAlî Chîr portant le même nom.

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a pensé en persan, a écrit en turc, et son habileté à manier cet idiome ne semble pas inférieure à celle de son illustre rival (Mîr ʿAlî Chîr). Tous deux se sont inspirés aux sources persanes comme l'ont fait les écrivains turcs qui ont brillé au xv[e] siècle de notre ère à la cour des princes timourides. »

La littérature ottomane doit beaucoup aux écrivains de l'Empire timouride, à Djâmî et à Mîr ʿAlî Chîr en particulier. Bayézid III, comme nous l'avons vu, était en relations directes avec Djâmî et le philosophe Djelâl ed-Dîn Davânî. Plusieurs auteurs, et non des moindres, de l'empire ottoman, avaient étudié en Perse ou en Asie centrale; d'autres étaient originaires de ces pays ou des régions voisines, tels les théologiens mystiques Chîrvânli Seyyid Yahyâ Djelâl ed-Dîn, mort en 842 (1438-1439), Yoûsouf Ziyâ'oud-Dîn Makhdoûm, grand-cadi de Chamakha, mort en 890 (1485-1486), et le célèbre Baba Ni'mètullâh Mahmoûd Nakhitchévânî, l'une des gloires de l'ordre des Nakchbendiyè, mort à Ak-Chéhir en 902 (1496-1497); le mathématicien Chîrvânlî Fathoullâh; le médecin Mahmoûd ibn Mehmed Dilchâd Chîrvânî, tous originaires de l'Azerbaïdjan[1]; à ce pays on peut encore rattacher, bien qu'il soit né en Mésopotamie, le poète Fuzoûlî[2].

LES ARABISANTS.

Au moyen âge l'arabe était, dans les pays musulmans, ce que le latin était alors chez nous : la langue des savants et des philosophes, des théologiens et des juristes. Les ouvrages reli-

[1] Yoûsouf Bek Vezirоff, *Revue du Monde Musulman*, 1922, L, 113-114
[2] *Op. cit.*, 107.

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gieux ou scientifiques composés en Asie centrale, sous la domination des Timourides, furent extrêmement nombreux[1]; mais peu d'entre eux sont connus aujourd'hui. On cite, parmi les théologiens ayant écrit en arabe, ʿAbdol-Ghafoûr Lârî, le disciple et le commentateur de Djâmî, Mîr ʿAtâollâh de Mechhed et Saïf ed-Dîn Ahmed, que Châh Ismâʿîl fit exécuter à Hérat parce qu'il refusait d'abandonner le Sunnisme. Djâmî a écrit sur la grammaire arabe; théologien et historien à la fois, Cheref ed-Dîn ʿAlî Yezdî a commenté le poème arabe de la *Borda*.

Persans ou Turcs, les savants d'alors écrivaient volontiers en arabe, mais il n'en était pas de même des littérateurs. Le sultan Ahmed Djelâïrî a composé des vers en arabe et en persan; polyglotte remarquable, Fuzoûlî, que le sultan Suleïmân emmena à Constantinople, maniait avec une égale facilité le turc azéri et osmanli, le persan et l'arabe; mais de tels exemples sont rares.

LA THÉOLOGIE.

Généralités.

Au moyen âge la philosophie et le droit se confondent avec la théologie. Il en est souvent de même de la littérature, et l'on ne pourrait comprendre l'évolution des idées religieuses dans les pays de culture iranienne, sans une étude approfondie des poètes persans. Ceux du xv^e^ siècle sont, nous l'avons vu, pour la plupart des philosophes ou des moralistes, même quand ils doivent leur célébrité à des œuvres profanes; beaucoup, parmi eux, avaient étudié la théologie, et ont laissé des travaux sur le dogme, l'exégèse et les diverses sciences religieuses. Djâmî est l'exemple le plus frappant de cette union

[1] Skrine et Denison Ross, *The Heart of Asia*, p. 180. Cf. Browne, *op. cit.*, 458.

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des lettres et de la théologie : poète mystique et moraliste, il est en même temps, exégète, traditionniste et hagiographe. Nous avons parlé de ses biographies de saints musulmans, si précieuses pour l'histoire du Soufisme; une mention spéciale est due à ses *Achi'atol-Lama'ât* « Rayons des Flammes », commentaire des *Lama'ât* de 'Irâkî publié en Perse : l'introduction en est suivie d'une longue dissertation sur certains points du mysticisme. Djâmî est encore l'auteur des *Lawâ'ih* « Flammes », traité de mysticisme en prose mêlée de quatrains dont M. E.-H. Whinfield et Mîrzâ Muhammad Qazwînî ont publié, en 1906, le texte en fac-simile, accompagné d'une traduction anglaise. Une prière extrêmement curieuse est placée en tête de cet ouvrage [1].

Mollâ 'Abdol-Ghafoûr Lârî, le fidèle disciple et le biographe de Djâmî, dont il a commenté les *Nafahât*, a été aussi un théologien remarquable. Esprit cultivé, il était très versé dans les sciences profanes. C'était un homme simple et sans prétentions, dont la vie s'écoula au milieu des théologiens [2].

Seïf ed-Dîn Ahmed fut le dernier Cheikhul-Islâm du Khorassan ayant appartenu à la famille des Taftâzânî, chez qui cette dignité était en quelque sorte héréditaire. Théologien et littérateur estimé, il se faisait remarquer par son zèle : on assure que pendant soixante-dix ans il ne manqua pas une seule fois la prière du vendredi. Châh Ismâ'îl le fit mettre à mort lors de la prise d'Hérat [3].

Mystique et savant, Khodja 'Obeïdallah Ahrâr, qui avait pour devise *Al-fikr fakhrî* « La pauvreté est ma gloire », mort à Koumaguirân en 895 (1489), est le plus grand nom de l'ordre des Nakchbendiyè. A Samarkand son tombeau est un lieu de pèlerinage, et son *Tohfèyé-Ahrâr* « Présent aux hommes

(1) *Cf.* Browne, *op. cit.*, 445-448.
(2) *Op. cit.*, 458.
(3) *Ibidem.*

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libres» est un livre devenu classique. Fakhr ed-Dîn ʿAlî a écrit ses *Rachahât* d'après des notes prises dans les entretiens qu'il eut avec lui[1].

On trouve parmi les théologiens d'alors des souverains : Olough Bey, qui connaissait les sept lectures du Coran, et Hoseïn Baykara, ainsi que plusieurs hommes d'État, comme Mevlânâ ʿAbdol-Hamîd et Mevlânâ Djelâl ed-Dîn Yoûsouf Oûbahî, un merveilleux savant. Plusieurs d'entre eux passèrent leur existence dans les cours : ce fut le cas pour Mevlânâ Chems ed-Dîn Mohammed Emîn, qui mourut, très âgé, sous Bâber, et Mîr Dervîch Mohammed Sârbân, l'un des disciples préférés de Khodjâ Ahrâr, et, en même temps, un brillant causeur.

Les exégètes.

Djâmî et Mîr ʿAlî Chîr sont connus, le premier surtout, comme commentateurs. Ils avaient été précédés par Kemâl ed-Dîn Hoseïn ibn Hasan, auteur et traducteur fécond, né dans le Kharezm et tué par les Uzbeks entre 835 et 840 (1432-1437). Disciple de Aboû'l-Véfâ, il a laissé, entre autres ouvrages, un Commentaire du *Mèsnévî* de Djelâl ed-Dîn Roûmî dont l'introduction est précieuse pour la connaisssance du Soufisme[2]. Mevlânâ Fasîh ed-Dîn, protégé de Ḥoseïn Baykara et de Mîr ʿAlî Chîr, mort en 919 (1513), a composé de nombreux commentaires d'ouvrages relatifs aux dogmes : ses écrits sont, aujourd'hui encore, classiques en Asie centrale. Hoseïn Vâʿez Kâchefî est l'auteur d'un commentaire persan du Coran, *Mèvâhèb-é ʿAliyè* « Les Dons sublimes », dédié à Mîr ʿAlî Chîr, et qui devait comprendre quatre volumes : revenu à des idées plus modestes, l'auteur réduisit à un seul les quatre volumes de cet ouvrage, oublié en Perse, mais encore très estimé dans

[1] *Op. cit.*, 441.
[2] *Op. cit.*, 444-445.

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l'Inde[1]. Nous avons vu que ʿAbdol-Ghafoûr Lârî avait aussi écrit des commentaires.

Les traditionnistes.

L'étude des *hadîth*, ou traditions relatives au Prophète, est devenue l'objet d'une science très cultivée dans tous les pays musulmans. Mîr Djemâl ed-Dîn Mokaddes est, pour l'époque timouride, le plus célèbre de ceux qui s'y sont adonnés. Il vivait encore, très âgé, du temps de Bâber.

Les hagiographes.

Parlant des travaux biographiques, nous avons signalé les œuvres de Djâmî, de Hoseïn Vâʿez Kâchefî et de Mevlânâ Moʿayyen de Ferrâh, et leur importance au point de vue religieux.

Le Horoûfisme.

Les doctrines horoûfies, qui devaient se propager rapidement en Turquie, n'eurent guère de succès dans leur pays d'origine, la Perse. On ne peut guère citer, pour l'époque timouride, d'autre ouvrage horoûfî en langue persane que le *Mahrem-Nâmè* «Livre des Confidences», composé en 828 (1425) par Seyyed Ishâk; il a été publié et traduit par M. Cl. Huart[2].

LE DROIT.

Nombreux sont les traités de jurisprudence du XV^e^ siècle : la plupart ont été composés en arabe. Mais leurs auteurs sont

(1) *Op. cit.*, 442.

(2) *Textes horoûfis*, p. 13-58 des textes et 21-94 des traductions.

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presque tous oubliés. On ne peut guère citer que Kâzî Ikhtiyâr, excellent magistrat, ami de Bâber qui lui enseigna l'écriture *bâberî* : il a écrit plusieurs traités sur le droit et les expressions du Coran; Mollâ ʿAbdol-Ghafoûr, le disciple de Djâmî : c'était un juriste de valeur, et Khodja Djelâl Feïzollah, de Hérat, le maître de Mîr ʿAlî Chîr. Ce dernier comptait, parmi ses amis, le cadi ʿÎsâ, à la fois jurisconsulte et poète, attaché à la cour de Yaʿkoûb Mîrzâ : il lui donna un jour les œuvres complètes de Djâmî, ainsi que plusieurs autres ouvrages. ʿÎsâ était un homme de mérite; mais ses exigences l'avaient rendu impopulaire, et le poète Cheïkh Nedjm, un autre ami de Mîr ʿAlî Chîr, usait de tout son pouvoir auprès de Yaʿkoûb Mîrzâ pour faire atténuer ses exigences [1].

LES SCIENCES.

Toutes les branches du savoir sont représentées, et le plus souvent de façon brillante, à l'époque timouride. Les mathématiques, et en particulier l'astronomie, attirent les chercheurs, et le premier nom qui vient à la pensée est celui d'un souverain qui fut avant tout un savant : Olough Beg. On trouve encore, parmi les Timourides, un prince qui, véritable autodidacte, étonnait par la profondeur et la variété de ses connaissances : Kitchik Mîrzâ.

Olough Beg et l'astronomie.

Lettré et savant, Olough Beg s'adonna avec passion à l'astronomie, et ses recherches lui firent oublier plus d'une fois les exigences du pouvoir. En 832 (1428), il faisait commencer à Samarkand, au bord du Kohik, la construction d'un obser-

[1] Belin, *Notice...* apud *Journal Asiatique*, 1861, XVII, 223.

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vatoire auquel furent attachés, avec de riches dotations, trois savants venus de Kâchân : Hasan Tchélébi, dit Kâzîzâdè Roûmî, dont le fils, Meryem Tchélébi, commenta l'œuvre de Olough Beg; Ghiyâs ed-Dîn Djemchîd et Mo'ayyen ed-Dîn Kâchânî. Avec eux, un astrologue d'origine israélite, Salâh ed-Dîn, avait pris l'initiative de cette construction, dont 'Alî Kouchdje fut l'architecte.

L'observatoire de Olough Beg, qui n'existe plus aujourd'hui, passait pour une des merveilles du monde, et la mère de son fondateur, Gauher Châd, fit le voyage de Samarkand pour le visiter. Olough Beg, dans les recherches auxquelles il se livrait avec les savants de Kachan, avait inventé de nouveaux appareils astronomiques, et constaté que le comput de Ptolémée était en désaccord avec ses propres observations. Il voulut le corriger et ce fut là l'origine des « Tables nouvelles et sultaniennes », *Zidj-é Djedid-é Soltânî*, œuvre collective qui contient tout le savoir des astronomes du xv^e^ siècle. Achevées en 841 (1437), et divisées en quatre parties : 1° computs et ères divers; 2° connaissance du temps; 3° cours des astres; 4° position des étoiles fixes, ces Tables ont rendu Olough Beg célèbre en Europe. Le premier, John Greaves (en latin *Graevius*), professeur d'Oxford, attira l'attention sur elles (1642-1648); en 1665 Hyde en donnait une traduction latine revue, longtemps après, par Sharpe (1767), et, de 1847 à 1853, Sédillot en a publié le texte accompagné d'une traduction française[1].

Greaves, que nous venons de citer, a fait connaître chez nous un autre astronome d'alors : Mahmoûd Châh Kholdjî. Mais on peut dire qu'avec Olough Beg finit, pour longtemps du moins, la période des travaux astronomiques de l'Orient[2]; si l'on en excepte Khodja Oouhad Mostoufî, le protégé de Mîr 'Alî Chîr,

[1] Vambéry, *Gesch. Bochara's*, II, 9-10; cf. Browne, *op. cit.*, 386, 508.
[2] Sédillot, *Prolégomènes*, I, cclxxxii.

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savant et poète à la fois, on ne verra plus guère d'astronomes à l'époque timouride.

Les mathématiciens.

Les ouvrages sur les mathématiques, sur l'arithmétique en particulier, sont extrêmement nombreux au xv^e^ siècle. Olough Beg a laissé la réputation d'un savant mathématicien. Sous Châhroukh, Kavâmod-Dîn était regardé comme un géomètre hors de pair. Un Azerbaïdjanien qui, après avoir étudié à Samarkand, alla se fixer chez les Ottomans, Chîrvânli Fathoullâh, mort en 857 (1453-1454), a laissé, sur les mathématiques et la théologie, plusieurs ouvrages estimés; ils ont été commentés par son fils, Fathoullâhzâdè.

L'art militaire.

Sous le règne de Hoseïn Baykara on vit un théologien chiite, Mohammed Mîr Yoûsouf, parvenu à la dignité de cheikhul-Islâm, s'éprendre des questions militaires au point de négliger complètement, pour elles, les devoirs de sa charge. On sait que les Mémoires de Bâber, auxquels ces détails sont empruntés, sont des plus précieux pour l'histoire militaire du xv^e^ siècle.

La médecine.

Azerbaïdjanien d'origine, Ottoman d'adoption, Mahmoûd ibn Mehmed Dilchâd Chîrvânî, était à la fois médecin et minéralogiste : la Bibliothèque Mourâdiyè de Magnésie possède son Abrégé de médecine et son *Kèmâl-Nâmè* « Livre de la Perfection ». Il écrivait en 841 (1437-1438)[1]. Dans ses Mémoires, Bâber parle de Mevlânâ Yoûsoufî, habile médecin qu'il fit

[1] Yoûsouf Bek Veziroff, *op. cit.*, 113.

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venir du Khorassan, et de son vizir Khodja Nizâmoud-Dîn Khalîfè qui, lui, étudia la médecine par goût. Un autre médecin en vue, à cette époque, était ʿAbdul-Hayy, qui servait de messager à Hoseïn Baykara et à Mîr ʿAlî Chîr. Ce dernier, dans son *Mahboûboul-Kouloûb*[1], fait un curieux exposé des devoirs du médecin, à qui la science ne suffit pas pour remplir dignement sa mission : il doit, avant tout, être humain, compatir aux souffrances de ses malades, les consoler, les encourager, et prendre autant de soin des âmes que des corps. Unie à la science, la bonté accomplira des miracles comparables à ceux de Jésus, et fera de la fontaine de Jouvence une réalité. Mais le médecin inhumain, si grand que soit son savoir, ne peut être autre chose qu'un bourreau.

Bâber, dans ses Mémoires, donne de curieux détails sur la médecine et la chirurgie de son temps[2]. On employait comme remèdes les prunes sèches, les pastèques, le narcisse, l'eau de rose, l'opium, le mercure; les fumigations de poivre, les toniques, les contre-poisons, étaient également en usage. Les chirurgiens, appelés par les Mongols *bakhchi*, pratiquaient la trépanation. L'un d'eux, qui soigna Bâber blessé à la cuisse, appliqua un bandage sur sa plaie, sans y mettre de charpie, et lui fit prendre, une seule fois, une substance semblable à une veine (?). Ce chirurgien, nommé Abikè-Bakhchi, était d'une grande habileté : pour certaines blessures il se contentait de faire avaler des drogues; pour d'autres, il appliquait des emplâtres. Ayant eu un jour à traiter un homme qui avait eu le pied broyé, il lui fit une incision, retira les esquilles, et mit à la place des os broyés une substance qui prit bientôt la consistance des os eux-mêmes : au bout de quelque temps le blessé fut complètement guéri[3].

[1] Éd. de Constantinople, 29.
[2] Cf. la traduction Beveridge, II, 860.
[3] *Op. cit.*, I, 169-170, et trad. Pavet de Courteille, I, 236-237.

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Les sciences naturelles.

Nous avons du médecin Mahmoûd ibn Mehmed Dilchâd Chîrvânî un traité en turc osmanli sur les pierres précieuses dédié au sultan Mourâd, le *Tuhfè-i Mourâdî;* il en existe un manuscrit à la Bibliothèque du Musée de Constantinople[1]. Grand observateur, le sultan Bâber a noté, dans ses Mémoires, tout ce qui l'avait frappé dans la faune et la flore des pays qu'il avait vus : une étude sur les faits qu'il signale ne manquerait pas d'intérêt[2].

Géographie et ethnographie.

Nous avons vu que Hâfiz Âbroû avait composé, pour Châhroukh, un grand ouvrage géographique dont le premier volume, encore inédit, a été conservé[3]. De précieux renseignements sur l'ethnographie de l'Asie se trouvent dans la relation de l'ambassade en Chine, faite également sur l'ordre de Châhroukh, par Cheref ed-Dîn ʿAlî Yezdî, dans les questions et réponses sur l'Inde, de Djâmî[4], et dans les Mémoires de Bâber.

Les sciences occultes.

Au moyen âge, chaque souverain avait ses astrologues. On a conservé le nom de ʿAbdol-Kâder Maraghaï, chef des astrologues de Châhroukh, et Bâber parle du sien, Mohammed Cherîf, comme d'un homme méprisable dont il dut se séparer. Nous savons quelles furent, pour Baysonkor Mirzâ, les conséquences des prévisions astrologiques.

(1) Yoûsouf Bek Vezîroff, *loco citato.*
(2) Cf. l'index général de la traduction Beveridge, II, 862-863.
(3) Browne, *op. cit.*, *h* 25.
(4) Vambéry, *op. cit.*, II, 31 (note).

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L'alchimie avait aussi de nombreux adeptes. Cheref ed-Dîn Alî Yezdî s'y livrait avec ardeur; il a, en outre, écrit des traités de magie. L'un des émirs de 'Omar Cheikh, 'Alî Dost Taghay, se vantait d'être magicien.

LES ARTS.

Généralités.

Dans son magistral ouvrage, *The Miniature Painting and Painters of Persia, India and Turkey*[1], M. F. R. Martin déclare que les Timourides furent les princes les plus artistes qui aient régné sur la Perse. Ils réparèrent brillamment les ruines laissées par leur aïeul. L'art persan atteignit, à leur époque, sa perfection. Poètes estimés, Baysonkor, Châhroukh, Olough Beg, Hoseïn Baykara furent aussi de grands bibliophiles, auxquels les ducs de Bourgogne et le roi René d'Anjou ne furent pas supérieurs. Baysonkor fut l'un des premiers bibliophiles du monde. Les industries d'art : tapis, faïences, ivoires, armurerie, firent des progrès remarquables. Généreux Mécènes, les souverains timourides étaient toujours à la recherche du beau, et leurs cours rappelaient les meilleurs jours des Omeyyades et des Abbassides.

L'influence chinoise est un des caractères essentiels de l'art timouride. Cette influence, conséquence naturelle de la conquête mongole, était déjà ancienne : elle était prépondérante dans la seconde moitié du XIII^e^ siècle, époque à laquelle Houlagou fondait à Tauris et à Maragha des ateliers de céramique dont les ouvriers avaient été amenés de Chine; nous verrons quel rôle jouait la céramique dans l'ornementation architecturale d'alors. Peintres et miniaturistes, de leur côté, adoptent le style chinois.

[1] London, 1912, I, 35-36; passage reproduit dans BROWNE, 394-397.

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Une autre caractéristique de cette époque, c'est l'importance prise par les arts du livre. Plus que jamais, la calligraphie est un art raffiné; l'enluminure des manuscrits nous a valu d'admirables chefs-d'œuvre, de même que la reliure et les arts annexes.

L'architecture.

Un plan d'aspect massif, des voûtes peut-être d'une construction hardie, mais s'appuyant sur des murs dont l'épaisseur atteste l'inexpérience ou la prudence des architectes (ce caractère d'ailleurs ira en s'atténuant)[1]; de longues colonnes sculptées, fréquentes surtout dans les monuments du Turkestan, et qui rappellent ces piliers sculptés de bois de senteur recouverts de fourrures qui soutenaient les tentes de Djenguiz Khan et de Timour[2], des revêtements de céramique qui, dès le début, atteignirent presque la perfection[3], et où l'on remarque un emploi très judicieux des couleurs, sont les traits essentiels de l'architecture timouride. L'influence chinoise, si grande dans les arts d'alors, s'y fait nettement sentir : la mosquée a emprunté à la pagode son dôme en forme de bulbe; les revêtements de céramique sont faits à l'imitation de la Chine[4].

Le Goûr-é-Mîr, ou sépulture de Timour à Samarkand, construite par l'architecte Mohammed ibn Mahmoûd Isfahânî en 808 (1405), est le plus célèbre des monuments d'alors. Le tombeau proprement dit comprend une salle en forme de croix, inscrite dans un octogone et composée de quatre grandes niches merveilleusement décorées de stalactites, et sur les-

(1) Saladin et Migeon, *Manuel*, I, 373.
(2) *Op. cit.*, I, 431-432.
(3) *Op. cit.*, I, 355.
(4) Voir l'étude de M. E. Blochet, *Les inscriptions de Samarkand*, I, *Le Gour Emir*, apud *Revue archéologique*, 1897, XXX, 67-77.

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quelles repose un double dôme, dont la construction est à la fois ingénieuse et solide, et dont l'ornementation extérieure est faite de côtes en briques émaillées formant rosace, avec des stalactites à la base et une frise d'inscriptions en caractères koufiques, surmontées de deux bandeaux d'attributs divers. A l'intérieur, la salle centrale ne contient que des sarcophages figurés : les véritables tombeaux se trouvent dans une crypte fermée par une belle pierre de jade noir couverte d'inscriptions, et ils sont entourés d'une balustrade de panneaux de marbre percés à jour, avec une ornementation géométrique. Les murs sont couverts de jaspe et de faïence, avec des arabesques et des inscriptions. Deux mausolées servant de sépulture à des parents de Timour se trouvent à droite et à gauche du Goûr-é-Mîr, dans la cour d'entrée. On pénètre dans cette dernière par un grand portail qui, bien que ruiné, reste un des plus beaux spécimens de l'art timouride. Les revêtements de céramique ont conservé tout leur éclat[1].

Les plus remarquables des monuments édifiés, achevés ou restaurés sous les Timourides sont : à Samarkand, la mosquée de Bibi Khanoum, élevée de 1389 à 1403, et les édifices d'Olough Beg, comprenant un couvent, *khânèkâh*, dont la coupole dépassait en hauteur celle de tous les autres couvents du monde: les mosquées de Olough Beg et de Châh Zendè, achevées en 823 (1420) et en 838 (1434) : la première était dite «mosquée découpée», *mesdjid-é mokattaʿ*, en raison de l'ornementation à la chinoise, en bois découpé et colorié, qui en recouvrait le plafond et les murs; une medrèsè construite en 828 (1424), dont le bain était orné de merveilleuses mosaïques; le palais des Quarante colonnes, *Tchehel Soutoûn*, construction à deux étages flanquée de quatre hautes tours et que décorait une imposante colonnade à ornementa-

[1] Saladin, *op. cit.*, I, 359-363.

tion droite et courbée; la Salle du Trône, *Keurunuchkhâné*, construite en blocs de marbre : le piédestal du trône était formé par un bloc de 8 aunes de largeur sur 15 de longueur et 1 d'épaisseur[1], le Tchînîkhâné, pavillon dont les murs avaient été décorés à la fresque par un artiste chinois, et enfin le célèbre observatoire, aujourd'hui détruit. A Amol : le tombeau de Nâserol-Molk, daté de 864 (1460). A Ispahan : le Grand Portail ou Dervâzè Dèr-é-Kiochk, édifié en 901 (1496). A Mechhed enfin, le tombeau de l'Imam Rezâ, construit à une époque que l'on ne peut préciser[2].

La Mosquée Bleue de Tauris, construite de 1437 à 1468 sous le règne de Djihânchâh, souverain de la dynastie du Mouton-Noir, est décorée de mosaïques et de faïences de toute beauté, dans lesquelles on remarque une grande variété de procédés et de motifs d'ornementation. Briques émaillées, mosaïques de brique et mosaïques de faïences taillées à la main recouvrent partiellement le porche et le portail, combinés à l'occasion avec des stalactites de terre cuite. Quant aux sujets, ils consistent en inscriptions, médaillons, étoiles, fleurons, etc. Le bleu, qui présente une grande variété de nuances, domine dans les faïences, où l'on trouve aussi des tons vert foncé, feuille morte ou noir; les briques sont de couleur gris rose; des arabesques d'or et des lambris d'agate relèvent le tout. Les portes sont en albâtre, et deux dômes superposés: l'un mosaïqué, l'autre de marbre blanc, surmontent l'édifice, dont Tavernier fait une longue description[3].

Les auteurs de ces chefs-d'œuvre sont, pour la plupart, des

(1) Ce bloc, qui a été endommagé par un coup reçu pendant son transport, n'est pas la fameuse Pierre bleue de Samarkand, que Vambéry décrit dans son *Voyage*, p. 167; les dimensions ne sont pas les mêmes.

(2) Bâber, *Mémoires*, trad. Pavet de Courteille, I, 100-102; Vambéry, *Gesch. Bochara's*, II, 8-9; Saladin et Migeon, *op. cit.*, I, 435.

(3) Saladin et Migeon, *op. cit.*, I, 363-373.

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architectes inconnus. On n'a guère conservé d'autres noms que ceux de Mohammed ibn Mahmoûd Isfahânî, déjà nommé, de ʿAlî Kouchdje, qui éleva l'observatoire de Olough Beg, et de Oustâd Kavâmod-Dîn, l'architecte de Chahroûkh.

Introduite dans l'Inde par les conquêtes de Bâber, l'architecture timouride s'y propagea rapidement, donnant naissance, au sud de la rivière Nerbudda, à plusieurs écoles : 1° des princes de Bidjapour (1489-1660), au style presque entièrement persan; 2° des monuments de Golconde, où la décadence apparaît déjà (1512-1572); 3° des monuments du style mongol introduit par Bâber en 1494 : les écoles précédentes s'y fondent, et il en est de même pour celle de la dynastie Bahmanî à Kalburga (1347) et Bidar (1426), qui cesse d'exister en 1525; 4° des monuments du Sind, où le caractère persan est marqué; 5° et 6° d'Oude et de Mysore (XVIII^e siècle), où ce caractère se présente d'une façon moins nette [1].

La peinture.

La peinture fait son apparition en Perse avec les souverains mongols; une école de miniaturistes se fonde vers 1365, lors de l'avènement de Timour, qui fait faire son portrait et ceux des membres de sa famille; cette école subsistera jusqu'à la mort du prince chéibanide Nevroûz, c'est-à-dire jusqu'au milieu du XVI^e siècle. Tous les Timourides favorisèrent les peintres : Châhroukh lui-même cultivait leur art, et il en était de même du vizir de Hoseïn Baykara, Mîr ʿAlî Chîr.

Comme dans les autres arts, nous retrouvons ici l'influence chinoise. Les Chinois ont été les maîtres des Persans, dit M. Gayet; dans les miniatures qui ornent quelques beaux manuscrits de la Bibliothèque nationale, exécutés au XV^e siècle,

[1] *Op. cit.*, II, 547.

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on reconnaît des types physiques extrême-orientaux, des nuages ayant la forme du *tchi*. C'est le cas, en particulier, pour le *Mi'râdj-Nâmè*, ou récit de l'ascension du prophète Mohammed[1], manuscrit provenant de Hérat et datant des débuts du règne de Châhroukh : ses miniatures sont un peu monotones; mais on y remarque (fol. 50) un bien beau paysage, attestant une rare compréhension de la nature. L'influence chinoise est encore plus marquée dans le traité d'astronomie de 'Abd Er-Rahmân Soûfî, exécuté pour Olough Beg[2] : le dessin en est beau, et la décoration désuète. Le manuscrit de Djoveïnî[3] est un des plus beaux spécimens de l'art d'alors; il est daté de 1437 et a été exécuté à Hérat, comme le manuscrit des amours de Houmây et de Houmâyoûn, conservé à Vienne[4], et antérieur de dix ans.

Plusieurs écoles de peinture se formèrent sous les Timourides : à Samarkand, à Boukhara, à Hérat; leurs productions sont de beaucoup supérieures à celles des écoles mongoles qui les précédèrent. Elles s'adressaient à un public plus raffiné, peu désireux de contempler des scènes de bataille et de carnage; l'expansion artistique était libre, et le pouvoir favorisait les artistes. Des villes où elles avaient pris naissance, les traditions timourides pénétrèrent en Perse et dans les États uzbeks, où elles se conservèrent longtemps. Mais, bien avant la disparition des successeurs de Timour se produit une évolution à laquelle on devra une nouvelle école, dite séfévide, qui fait ses débuts à Hérat sous le règne de Hoseïn Baykara, entre 1467 et 1505, et se distinguera par son abandon et sa grâce. Le Djâmî illustré par Mahmoûd[5] et le merveilleux Divân de Mîr

(1) Supplément turc, n° 190.
(2) Arabe 5036.
(3) Supplément persan, 206.
(4) N° 281.
(5) Supplément persan de la Bibliothèque Nationale, 1416. Il est daté de 905 (1499).

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Alî Chîr[1] en sont des monuments caractéristiques[2]. Behzâd devient le chef de la nouvelle école, qui atteindra son apogée sous Châh ʿAbbâs.

Dans son savant ouvrage, *Les calligraphes et les miniaturistes de l'Orient musulman*[3], M. Cl. Huart a donné la succession des maîtres de l'époque timouride. Des premiers, nous savons peu de chose. Oustâd Gong Nakṣatol-Moharrirîn, le premier en date, forme Djihânguîr ʿOmdatol-Mosavverîn, de Boukhara, qui est lui-même le maître de Behzâd. Celui-ci, dont le véritable nom était Kemâlod-Dîn, était originaire de Hérat, débuta sous Hoseïn Baykara et continua sa carrière sous Châh Ismâʿîl, également favorisé des deux souverains. Il vivait encore en 1524. Il y a une dizaine d'années, Mirza Muhammad Qazwîni trouvait dans le *Nâmèyé-Nâmî*, recueil manuscrit de pièces officielles formé par Khondémîr et acquis par la Bibliothèque Nationale, deux pièces qui nous fournissent de nouvelles données sur l'existence mal connue d'un peintre cependant célèbre. Ce sont : 1° la préface écrite par Khondémîr pour le recueil des œuvres de Behzâd; 2° le décret de Châh Ismâʿîl nommant ce dernier directeur général de la Bibliothèque royale, et faisant de lui une sorte de surintendant des corporations artistiques dont nous parlerons plus loin[4]. Ce décret, dont Khondémîr est également le rédacteur, porte la date de 928 (1522). Behzâd qui, d'après Bâber[5], avait un talent délicat, mais exagérait les lignes du menton dans les visages imberbes, et ne peignait avec perfection que les visages barbus, a formé,

(1) Supplément turc de la Bibliothèque Nationale, 316. Il a été exécuté à Hérat en 934 (1527).

(2) Saladin et Migeon, *op. cit.*, II, 31-40.

(3) Voir p. 330-334.

(4) *Deux documents inédits relatifs à Behzâd*, apud *Revue du Monde musulman*, 1914, t. XXVI, p. 146-161 (texte et traduction, par Mirza Muhammad Qazwini et L. Bouvat).

(5) *Mémoires*, trad. Pavet de Courteille, I, 412.

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entre autres élèves, Cheikhzâdè, du Khorassan, et Mîr Mosavver, de Sultanié, qui fut lui-même le maître de Mîr Zeïnol-ʿAbidîn, d'Ispahan, de Aga Mîrek, chef d'école après Behzâd, de Mozaffer ʿAlî, le décorateur des Tchehel Soutoûn, etc.

Behzâd avait un rival très habile, mais qui mourut jeune, et au moment de son plus grand succès : Châh Mozaffer. Bâber, qui lui consacre quelques lignes[1], dit qu'il excellait surtout à rendre les chevelures, et qu'il a laissé un traité de mystique remarquable, mais dont les idées ne sont pas de lui.

Siyâvouch le Géorgien, dont le maître, Oustâd Hasan, était doreur de profession, jouissait aussi d'une certaine renommée. Une curieuse figure, parmi les artistes d'alors, est celle de Hâdjî Mohammed Nakkâch, d'Ispahan, plus connu sous le nom de Mîr Nakkâch. Bibliothécaire de Mîr Alî Chîr, il fit pour lui une curieuse horloge, devint doreur et fabriqua des porcelaines imitant celles de Chine. Directeur du musée de peintures de Châh Tahmâsp, il fut disgrâcié et dut se réfugier en Turquie, où Sultan Suleïmân lui accorda une pension. Un souverain djelaïride, Sultan Oveïs, était peintre lui-même, et il forma un élève : ʿAbdol-Hayy[2].

Les princes timourides amenèrent de Perse dans l'Inde des artistes qui fondèrent une belle école de miniaturistes, de dessinateurs et de portraitistes : un manuscrit de l'*Akbar-Nâmè*, conservé au South Kensington Museum, contient les portraits des nombreux peintres qui vivaient à la cour d'Akbar[3]. Dans le Khorassan et le Turkestan, les traditions artistiques se conservèrent jusqu'au début du XVII^e^ siècle, « jusqu'au jour où les tribus qui habitent cette vaste contrée retombèrent, et cette fois définitivement, dans la barbarie dont les Timourides du

(1) *Ibidem.*
(2) Cl. Huart, *op. cit.*, 326.
(3) Cl. Huart, *op. cit.*, 338

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Khorasan et de la Transoxiane avaient tenté de les faire sortir » [1].

La calligraphie.

Nous passons de la peinture à un art auquel elle est intimement liée. « En Orient, la miniature n'est que la servante de la calligraphie : c'est celle-ci que l'on a su apprécier, pour laquelle, à certaines époques, on a fait des folies qui ne peuvent se comparer qu'aux grands prix donnés chez nous aux chefs-d'œuvre de la peinture [2]. »

Baysonkor, ce petit-fils de Timour qui mourut en 837 (1433-1434) sans avoir régné, donna une impulsion remarquable à la calligraphie et aux divers arts du livre : enluminure, dorure, cartonnage, etc. Élève de Chems ed-Dîn Baysonkorî, de Hérat, il était devenu un calligraphe remarquable, et les Persans le considéraient comme un maître pour le *thouloûth* ou *sulus* [3], écriture de grandes dimensions employée surtout pour les titres d'ouvrages et les diplômes. Il s'était attaché quarante artistes de valeur qui, sans interruption, copiaient des manuscrits dans sa bibliothèque; plusieurs de leurs œuvres existent encore aujourd'hui dans les bibliothèques de Constantinople. Chems ed-Dîn, Hâdji Maksoûd, Turc d'Anatolie incomparable pour le *rikâ'* [4], et Ahmed Roûmî, étaient au nombre de ces calligraphes [5].

Plusieurs des artistes d'alors excellaient dans tous les genres. Tel fut le cas pour Sultân Ahmed Djelâïrî, tué en 813 (1410) : élève de son père pour la calligraphie, il était de plus graveur,

[1] Blochet, *Les écoles de peinture en Perse*, 140.
[2] Cl. Huart, *op. cit.*, 3.
[3] Cf. *op. cit.*, 28-34.
[4] Variété d'écriture dont les extrémités sont arrondies. *Op. cit.*, 35.
[5] *Op. cit.*, 97-98.

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doreur, archer, musicien et littérateur; pour Khâdjè ʿAbdol-Kâder Goûyendè, qui, du service de ce prince, passa à celui de Mîrânchâh, de Timour et de Châhroukh; pour ʿÂbdollâh surnommé Âchpèz ou Tabbâkh «le Cuisinier», en raison de son premier métier, homme simple et modeste que l'on disait seul comparable au maître Yâkoût; pour Ibrâhîm Mîrzâ, fils de Châhroukh, qui décora d'inscriptions les monuments de Samarkand, et ʿAbdollâh-è Morvârîd, qui écrivait de la main gauche avec la plus grande facilité : il était, de plus, bon poète, et son fils ʿAbdollâh devint émir sous Hoseïn Baykara. D'autres étaient des spécialistes : nous en avons nommé quelques-uns, et nous devons en citer encore :

Mohammed Mou'min, fonctionnaire du palais de Châh Ismâʿîl et professeur de Sâm Mîrzâ, spécialiste du *naskh* ou écriture classique arabe[1] et du *sulus*. À ces deux genres, Hakîmod-Dîn, plus connu sous le nom de Idrîs de Bitlis, joignait le *taʿlik*, écriture persane dans laquelle les lettres semblent suspendues les unes aux autres[2]. Historien et poète, Idrîs fut d'abord au service des souverains de la dynastie du Mouton-Noir; les succès des Séfévis l'obligèrent de se réfugier en Turquie, où son fils Aboû'l-Fazl, connu comme historien, devint defterdâr, ou ministre des finances[3]. ʿAbdollâh Kâteb Herevî, mort en 849 (1445), excellait dans le *naskh*, et Noûrî Kemâl, de Transoxiane, qui florissait en 871 (1566) était un virtuose du *sulus*.

Au début du XVI^e^ siècle, plusieurs calligraphes persans émigrèrent en Turquie, y apportant les traditions de l'art timouride. Idrîs de Bitlis ne fut pas le seul : le sultan Suleïmân emmena avec lui, à Constantinople, Châh Kâsem, de Tauris[4],

(1) Cf. *op. cit.*, 21-28.
(2) Cf. *op. cit.*, 49-50.
(3) *Op. cit.*, 102.
(4) *Op. cit.*, 99.

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et Zahîr ed-Dîn Kâdizâdè, de Ardébil, élève de Idrîs et traducteur persan de Ibn Khallikân[1].

L'écriture ouïgoure, dont les Turcs faisaient usage depuis plusieurs siècles, était en voie de disparition. Très défectueuse, n'ayant que seize caractères pour exprimer des sons beaucoup plus nombreux, elle ne pouvait soutenir une lutte inégale avec l'écriture arabe, dont elle avait tous les inconvénients sans en posséder les avantages. On trouve toutefois, à l'époque timouride, quelques manuscrits en caractères ouïgours : l'un d'eux, acheté à Constantinople par notre ambassadeur, le marquis de Nointel, et cédé par lui à Colbert, fait aujourd'hui partie de la Bibliothèque nationale (Supplément turc, 190). C'est une véritable merveille de calligraphie et d'enluminure, datée de 840 (1436-1437), et contenant, avec le *Mi'râdj-Nâmè*, ou récit de l'ascension de Mohammed au ciel, traduit de l'arabe, une version turque du « Mémorial des Saints », *Tezkèrè-i-Evliyâ*, de Ferîd ed-Dîn 'Attâr. Pavet de Courteille a publié et traduit ces deux ouvrages[2].

Les arts d'ornementation.

« L'art de la reliure s'est extrêmement développé sous les Timourides », dit M. Cl. Huart[3], et les divers travaux qu'elle comporte : préparation du papier, écriture en couleurs, fabrication du carton, dessin des tableaux, *vaslè* ou cartonnage, enlèvement des taches, dessin en bosse et en relief, *chemsî* ou motifs d'ornement en forme de boule ou de soleil, ronds et dorés, tracé des arabesques ou *tarrâhî*, incrustation, dorure

[1] *Op. cit.*, 101.

[2] *Mirâdj-Nâmeh, publié pour la première fois d'après le manuscrit ouïgour de la Bibliothèque Nationale, traduit et annoté...* Paris, Ernest Leroux, 1882, gr. in-8°, facsimilé. — *Tezkereh-i-Evliyâ. Le Mémorial des Saints, traduit sur le manuscrit ouïgour de la Bibliothèque Nationale*... Paris, Imprimerie Nationale, 1889-1890, 2 vol. in-fol.

[3] *Op. cit.*, 323.

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et fabrication des divers ornements appelés *nâderè* « curiosités », firent de grands progrès. On donna des soins particuliers à la calligraphie, au découpage du cuir et des feuilles. Les procédés de l'art persan furent introduits en Turquie par des relieurs venus de Perse; on les retrouve même dans les reliures françaises et italiennes de la Renaissance[1].

On considère le peintre Kemâl, de Tauris, comme le créateur du dessin d'arabesques; son compatriote Mîrzâ ʿAlî aurait porté le nouvel art à sa perfection. Châh-Kouli Nakkâch et Mîr Nakkâch d'Ispahan étaient de remarquables *tarrâh* « dessinateurs » : chef de l'atelier de peinture de Châh Tahmâsp, Mîr Nakkâch fut attiré par le sultan Suleïmân à Constantinople, où son collègue Oustâd Velî Djân, comme lui venu de Perse, occupait aussi un emploi officiel. Plusieurs souverains et princes timourides : Ibrâhîm Sultân, Ahmed Sultân, Mîrzâ Baysonkor, furent du nombre des *tarrâh*[2].

L'art de la découpure a été inventé par ʿAbdollâh ibn Mîr ʿAlî : la bibliothèque de Sainte-Sophie, à Constantinople, possède un divan de Hoseïn Baykara décoré par lui, mais malheureusement mutilé. Son fils Doûst Mohammed fut son émule et forma un excellent élève, Seng ʿAlî de Badakhchân; mais ʿAbdollâh, de Hérat, aurait surpassé tous les autres découpeurs. Comme le précédent, cet art a passé de Perse en Turquie[3].

Parmi les doreurs célèbres on cite le maître Siyâvouch, qui aurait formé Hasan de Bagdad, chef de l'atelier de peinture de Châh Tahmâsp[4], Mollâ ʿAbdollâh, son contemporain, le peintre Mîr Nakkâch et le sultan Ahmed Djelaïrî.

(1) Édouard Fournier, *L'art de la reliure en France aux derniers siècles*, 2e éd., 108-109.
(2) Cl. Huart, *op. cit.*, 324-325.
(3) *Op. cit.*, 326-326.
(4) *Op. cit.*, 339.

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Ces arts n'étaient pas les seuls. Le décret nommant Behzâd directeur de la Bibliothèque royale établissait son autorité, non seulement sur les calligraphes, *kâtebân*, peintres, *nakkâchân*, et doreurs, *mozehhebân*, mais aussi sur les encadreurs, *d'edvel-kechân*, fondeurs, *hallkârân*, batteurs d'or, *zerkoûbân*, et laveurs de lapis-lazuli, *lâdjverdchoûyân* [1].

La céramique.

Introduites en Perse par les céramistes chinois installés à Tauris et à Maragha par Houlagou, les traditions chinoises s'y conservèrent longtemps. Dans les faïences persanes de l'époque timouride, on retrouve les attributs bouddhiques et les motifs de l'ornementation chinoise reproduits avec une telle fidélité, qu'on serait tenté de leur attribuer une origine extrême-orientale. Nous avons vu quel rôle important elles jouaient dans l'architecture, où le carreau de faïence généralement bleue — le bleu lapis alternant avec le bleu turquoise — avait remplacé la brique vernissée. Les céramistes d'alors prenaient pour modèles les fabricants de tapis, reproduisant leurs dessins et se conformant à leurs méthodes, qui faisaient éliminer, avec la plus grande rigueur, tous les motifs défectueux [2]. Ils apportaient le même soin à la fabrication de la pâte, qui changea complètement après la substitution à la brique du carreau de revêtement. Après de nombreuses expériences, ils imaginèrent d'interposer un enduit de silicate alcalin entre la terre et l'émail : c'est à cet enduit que les faïences persanes doivent leur éclat [3].

[1] *Revue du Monde musulman*, 1914, XXVI, 153 (traduction) et 160 (texte).

[2] Saladin, *op. cit.*, I, 355.

[3] Al. Gayet, *L'art persan*, 201.

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Tapis et tissus.

Souvent veloutés, les tapis de l'époque timouride ont une ornementation qui rappelle celle de nos tapis de haute lisse : elle comprend d'ordinaire un grand médaillon central, avec coins et fond couvert, sauf pour les panneaux, qui présentent des forêts de lianes en lignes parallèles, les orbes d'arabesques étant remplacés par des sujets latéraux. Quelquefois on remarque des personnages offrant le type indien ou chinois. Les teintes comprennent toutes les nuances du bleu, du rose et du vert, combinées avec le rouge cuivré et le bleu lapis sur un fond tissu d'or[1].

Divers tissus présentent une ornementation du même genre. Les plus communs sont le baldaquin, soierie historiée et brochée d'or qui venait primitivement de Bagdad : *baldacchino* ou *baldekino* est la déformation de *baghdâdî*, mais qu'on fabriquait aussi en Ahvâz, et qui s'exportait jusqu'en France et en Angleterre; le *kimkhâ*, autre soierie damassée et brochée d'or, d'invention chinoise, mais souvent fabriquée à Hérat, Nichapour et Tauris, et connue en Europe sous divers noms : *camocato*, *camocan*, *camocas*, en grec καμουχᾶς; le *damaschino*, fabrication de Damas introduite plus tard à Yezd : c'était une étoffe lourde à dessins tissés dans le corps de l'ouvrage, et enfin le *siglaton* ou *siklat* (du grec κυκλάς), tissu du même genre, le plus souvent de couleur rouge, et dont le principal centre de fabrication était Tauris. Dans cette ville, on faisait aussi du brocart d'or, *nakhkh* ou *nekhkh*, en italien *nacco* ou *nacchetto* : le *nassit* ou *nassith* (de l'arabe *nasîdj*) n'en différait que par la nuance[2].

[1] Al. Gayet, *L'art persan*, 228.
[2] Heyd, *Histoire du commerce du Levant*, II, 697-700.

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L'armurerie.

Au xv^e^ siècle, la décoration des armures subit une transformation radicale, mais passagère. Toute damasquinerie disparaît; l'acier est simplement forgé ou ciselé, et l'on ne trouve plus de recherche que dans le dessin, qui atteint une précision remarquable. Mais au siècle suivant, l'or et l'argent reparaîtront sur les armes, plus luxueuses que jamais [1].

La musique.

Le règne de Hoseïn Baykara fut, pour la musique, une époque brillante. Les compositeurs, instrumentistes et chanteurs de talent y furent nombreux.

On considère, comme le premier compositeur d'alors, Ghoulâm Châdî. Fils d'un chanteur, il était un instrumentiste remarquable. Mohammed Cheïbânî l'envoya chez le khan de Kazan, et on ignore quelle fut sa fin. On voyait également à la cour de Cheïbânî l'habile compositeur Hoseïn, également estimé comme chanteur et joueur de luth : vaniteux et capricieux, il s'attira une sévère correction de son maître. Pehlevân Mohammed Bou Sa'îd, lutteur de premier ordre, d'où son surnom de Pehlevân, poète et compositeur, était, au contraire, de rapports très agréables; il a laissé des productions charmantes. Celles de Bannâï étaient aussi variées que remarquables. Châh Kouli, le joueur de guidjek, sorte de guitare, venu de l'Irâk en Khorassan, était un travailleur acharné. Koul Mohammed était, lui aussi, estimé comme compositeur et joueur de guidjek et de luth. Mîr *'Alî Chîr*, qui avait appris la musique de Khâdjè Youôsouf Bourhân, parent de Djâmî (qui

(1) Al. Gayet, *L'art persan*, 240.

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a lui-même écrit sur la musique) a composé des préludes estimés, et Khâdjè Yoûsouf mettait en musique les poésies de Mîr ʿAlî Chîr [1]. Les souverains timourides, uzbeks et turkmènes : Sultân Ahmed Djelâïrî en particulier, ne se bornaient pas à encourager les musiciens; plusieurs d'entre eux, tels que Olough Beg et Bâber, furent des compositeurs.

Flûtiste, joueur de luth et de guidjek, Cheïkhî n'a presque rien composé, mais il était un exécutant remarquable, et son érudition musicale, comme sa mémoire, était prodigieuse. Le poète ʿAbdollâh-é Morvârîd fut le premier joueur de kânoûn (sorte de psaltérion) de son temps.

III

LA VIE RELIGIEUSE.

Sunnites et Chiites. La religion et le pouvoir.

Dans la deuxième moitié du xv[e] siècle se produit une évolution qui aboutira au triomphe du Chiisme lors de l'avènement des Séfévis. Mais les Sunnites restent nombreux et influents; ils représentent l'orthodoxie officielle et comptent parmi eux des théologiens, des savants, des littérateurs et des hommes d'État de premier ordre. Le plus célèbre écrivain d'alors, Djâmî, était un Sunnite fervent : bienveillant et doux à l'ordinaire, il devenait âpre et irritable toutes les fois que ses croyances étaient en jeu. Mais le plus illustre et le plus fidèle de ses disciples, Mîr ʿAlî Chîr, était Chiite.

Les souverains d'alors, qu'il s'agisse des Timourides ou des dynasties rivales, sont en général des Sunnites fervents. Élevé

[1] Belin, *Notice...* apud *Journal asiatique*, 1861, XVII, 222-223.

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par un Chiite, Baysonkor deviendra Chiite lui-même, mais ne le restera pas, et reviendra à la religion officielle. Hoseïn Baykara avait, lui aussi, des sympathies pour le Chiisme; il fit apposer les noms des douze imams sur les monnaies et voulut les faire réciter dans le prône; Mîr ʿAlî Chîr l'en dissuada, et, comme Baysonkor, Hoseïn Baykara, à la fin de sa vie, était un Sunnite convaincu.

Châhroukh avait le goût des études théologiques et favorisait le clergé; il supplia l'empereur de Chine d'embrasser l'Islam. Olough Beg savait par cœur le Coran et pouvait le réciter selon les sept modes de lecture; ʿAbdol-Latîf était également théologien. Débauché et ivrogne, Bâber Mîrzâ montrait toutefois un grand respect pour les choses religieuses. Son successeur Aboû Saʿîd faisait de même; il rejeta les propositions de paix de Ouzoun Hasan, parce qu'il les trouvait illégales. ʿOmar Cheikh, sunnite et hanéfite convaincu, aimait les lectures pieuses et la conversation des hommes religieux.

Timour, nous l'avons vu, avait fait des prêtres et des religieux les conseillers et les confidents du souverain. A partir du règne de Sultân Ahmed, le clergé et les chefs uzbeks sont les maîtres du pouvoir, et leur rivalité perdra Baysonkor. Comme ce dernier, Hoseïn Baykara fut Chiite, puis revint à l'orthodoxie; plein de zèle pour le sunnisme, bien que débauché et peu pratiquant, il aimait à conférer avec les théologiens, était très généreux avec le clergé, pour lequel il fit de nombreuses fondations et construisit quantité d'édifices.

Les exemples d'impiété ou d'hérésie sont rares. On ne peut guère citer, parmi les souverains timourides, que Sultân Mahmoûd, qui traita indignement le vénérable Khodja Obeïdoullâh. Un fils de Hoseïn Baykara, Mohammed Hoseïn Mîrzâ, était un hérétique endurci; son contemporain Mîrzâ Yâdgâr, qui régnait en Khorassan, favorisait l'hérésie. Djihân

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Châh, l'un des souverains de la dynastie du Mouton-Noir, était un athée notoire, débauché et cruel. Ouzoun Hasan, de la dynastie du Mouton-Blanc, s'était rendu odieux aux Ottomans en s'engageant à protéger contre eux les Chrétiens de Trébizonde.

Toutefois, aucune hérésie ne parvint à s'implanter dans l'Empire timouride. La curieuse doctrine horoûfie, inventée par Fazlollâh, Karmate d'Asterâbâd exécuté par ordre de Mîrânchâh en 796 (1393-1394), et qui attribue aux lettres de l'alphabet arabe une puissance mystérieuse, trouva quelques adeptes en Perse, et put s'y conserver jusqu'à nos jours (les Bâbîs en ont adopté les principes), mais n'exerça aucune influence sur les idées. Par contre, elle eut beaucoup de succès en Asie Mineure et en Turquie, où elle fut adoptée à la fois par l'ordre des Bektachis et par les janissaires [1].

Le clergé et la société religieuse.

Le cheikhul-Islâm représente, dans la communauté musulmane, la plus haute autorité religieuse. Il est le chef des muftis, ou interprètes supérieurs du dogme et de la loi, des imams, ou desservants des mosquées, des *vâ'ez* « prédicateurs », *moukri* et *hâfiz*, lecteurs et récitateurs du Coran. L'enseignement est confié aux *moderrès*, professeurs de medresè, c'est-à-dire de l'enseignement supérieur, et aux *mektebdâr*, ou maîtres d'école. Les cadis rendent la justice; ils ont pour supérieurs les *sadr* (pluriel arabe *soudoûr*), qui font les nominations et tranchent les questions les plus importantes. Les mosquées et les autres établissements religieux ont des *motevellî* pour administrer leurs biens temporels.

[1] Cf. les *Textes horoûfis, avec traduction, etc., édités par Clément* HUART, *suivis d'une Étude par le Dr. Rizá* TEVFÎQ, Leyden, E. J. Brill, London, Luzac and Co., 1909, gr. in-8° (t. VIII du *E. J. W. Gibb Memorial*), et BROWNE, *op. cit.*, 365-375 et 449-452.

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Dans un chapitre des *Nafahâtol-Ons* que Silvestre de Sacy a traduit[1], Djâmî définit les différentes sortes de mystiques ayant renoncé au monde pour se rapprocher de la divinité. Les plus élevés sont des « parvenus » et des « parfaits »; après eux viennent « ceux qui marchent dans la voie de la perfection »; tous les autres hommes sont rangés dans « ceux qui demeurent dans le terrain bas de l'imperfection ». Les premiers de tous sont les cheikhs, ou supérieurs, des soufis, ayant reçu la mission de guider les hommes; d'autres aussi arrivent à la perfection, mais ne sont pas désignés pour l'apostolat. Au-dessous de ces soufis de haut rang sont placés les *motasavvif*, c'est-à-dire ceux qui aspirent au soufisme, et les *malâmatî*, hommes simples et modestes, désireux de mener une vie aussi pure que possible, et cachant au monde leurs bonnes actions et leurs extases. Ceux qui cherchent à obtenir la vie future sont de quatre espèces : 1° les *zâhid* « ascètes », méprisant ce bas monde et ne songeant qu'aux beautés de la vie future; 2° les *fakîr* « pauvres », ainsi nommés parce qu'ils ont renoncé aux richesses et aux honneurs pour se concilier la grâce divine; 3° les *khâdim*, ou serviteurs volontaires des *fakîr* et des hommes religieux; 4° les *ʿâbid*, littéralement « adorateurs », Musulmans pratiquants et zélés qui cherchent à gagner le ciel par leurs bonnes œuvres. Mais ces hommes vraiment pieux ont des imitateurs plus ou moins sincères : au-dessous du *malâmatî*, on trouve le *kalender*; au-dessous du *zâhid*, le *motazahhid*; au-dessous du *khâdim*, le *motakhaddim*; au-dessous du *ʿâbid*, le *motaʿabbid*, sans parler des hypocrites qui se donnent pour des hommes religieux afin de tromper leur entourage.

Parmi les ascètes et les mystiques d'alors, on remarque, en dehors des fondateurs ou chefs d'ordre religieux dont nous allons parler, Moʿayyen ed-Dîn ʿAlî, plus connu sous le nom

[1] *Notices et Extraits*, XII, 326-345.

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de Kâsimol-Envâr, le protégé de Châhroukh, mort à Samarkand, où il s'était retiré, en 837 (1433); Mevlânâ Djelâl ed-Dîn Lotfollâh, que Khondémîr considère comme le plus grand saint d'alors; des souverains et des princes comme Sultân Ahmed Mîrzâ, son fils Kitchik Mîrzâ et Aboû Tourâb Mîrzâ, fils de Hoseïn Baykara; des hommes d'État comme ʿAbdor-Razzâk Samarkandî, historien et diplomate qui, après avoir été mêlé à tous les événements contemporains, mourut supérieur de couvent; Mîr ʿAlî Chîr qui, par ses austérités, abrégea une existence qu'il aurait voulu consacrer entièrement à la religion; Khâdjè Nâser ed-Dîn ʿObeïdollah, autre soufi diplomate qui, sous le règne de Bâber Mîrzâ, organise la défense de Hérat; Dervîch Mohammed Tarkhan, le premier beg de Sultan Ahmed, renommé pour sa vie ascétique; Djelâl ed-Dîn Yoûsouf Oubâhî, célèbre à la fois comme mystique, comme savant et comme homme politique; des érudits comme Mevlânâ Rokn ed-Dîn Khwâfî et Aboû'l-Vefâyé Khârezmî; des poètes comme Djâmî.

L'ordre des Niʿmetollahîs était prospère alors. Son fondateur, Seyyed (ou Châh) Niʿmettollah de Kermân, mourut centenaire en 834 (1431); on voit encore son tombeau dans le village de Mâhân, près de Kermân[1]. L'ordre des Nakchbendiyè n'était pas moins florissant. Son fondateur Khâdjè Bahâ ed-Dîn, mourut en Perse en 857 (1453)[2], et il eut pour plus illustre représentant Khâdjè Obeïdollâh Ahrâr, qui appelait ʿOmar Cheikh «mon fils», et disait : «La pauvreté est ma gloire, *Al-fikr fakhrî.*» Il mourut en 895 (1489) à Samarkand, où son tombeau est resté un lieu de pèlerinage. Mîr Dervîch Mohammed Sarbân, son disciple préféré, Baba Niʿmetollah Mahmoûd Nakhitchèvânî, mort en 902 (1496-1497),

[1] Browne, 463-473.

[2] Cf. Mîrzâ Mohammed Haïder Doughlat, *Tarîkh-i-Rashidi*, note de la page 67.

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Ya'koûb Tcharkhî et Nizâm ed-Dîn Khâmoûch furent aussi des Nakchbendiyè célèbres. A ces ordres, il faut ajouter ceux, beaucoup plus anciens, des Kâdiriyè, des Mevleviyè et des Yasâviyè : ce dernier comptait de nombreux adeptes à la fois en Asie centrale et en Asie Mineure, et son influence subsiste encore aujourd'hui [1].

Les Seyyeds, ou descendants du Prophète, qui, à ce titre, recevaient des pensions de l'État, les théologiens, les ulémas ou docteurs, les membres du clergé et des ordres religieux et ceux qui, sans en faire partie, avaient adopté la vie religieuse, étaient déjà les conseillers écoutés de Timour; ils dominèrent plus ou moins la politique de ses successeurs; parfois même, ils la dirigèrent complètement.

IV

QUESTIONS ÉCONOMIQUES.

L'organisation du travail.

Timour et la plupart de ses successeurs favorisèrent de tout leur pouvoir le commerce, l'industrie et l'agriculture. Ils faisaient des avances aux marchands ruinés, donnaient aux cultivateurs l'outillage nécessaire, assuraient du travail aux ouvriers et, quand la main-d'œuvre était insuffisante, ils y remédiaient, soit en faisant venir de l'étranger, à prix d'argent, des techniciens habiles, soit en prescrivant des déplacements d'office; c'est ainsi qu'il se forma à Samarkand et à Tauris de véritables colonies d'ouvriers venus de Syrie, de

[1] Sur Khâdjè Ahmed Yasavî, fondateur de cet ordre, et son œuvre, cf. Kieuprilizâdè Mehmed Fouâd, *Turk Edébiyâtenda ilk Mutèsavvifler*, 31-201, et notre compte rendu de cette publication dans la *Revue du monde musulman*, année 1920, XLIII, 239-252.

IMPRIMERIE NATIONALE.

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Chine ou de divers points de la Perse où l'industrie était plus développée.

Les corporations étaient nombreuses et puissantes. Au moment de partir pour cette expédition de Chine que la mort l'empêcha de mener à bien, Timour donna de grandes fêtes à l'occasion du mariage de ses enfants : en tête du cortège qui défila devant lui, venaient les artisans et les ouvriers les plus habiles, portant leurs instruments de travail et leurs chefs-d'œuvre professionnels; le clergé, les ulémas et les magistrats venaient ensuite, précédant la famille royale. Dans certains cas, les corporations intervenaient dans les affaires publiques : c'est ainsi que l'on voit leurs chefs, sous Bâber Mîrzâ, contribuer à organiser la défense de Samarkand. La réglementation à laquelle elles étaient soumises paraît avoir été sévère : au chapitre VI de sa relation, l'ambassadeur espagnol Clavijo nous apprend que Timour était sans pitié pour les commerçants malhonnêtes.

Dans certains cas, plusieurs corporations similaires pouvaient être réunies sous l'autorité d'un seul et même chef : nous en avons du moins un exemple avec le décret nommant Behzâd surintendant de tous les artistes et ouvriers d'art. Ce décret a été rendu par Châh Ismâ'îl; mais il est vraisemblable qu'il a eu des précédents. Même si leur valeur littéraire était médiocre ou nulle, les poèmes dans lesquels Seïfî Bokhârî décrivait tous les métiers de son temps seraient précieux pour nous : ils contribueraient pour une large part à nous faire connaître les conditions d'existence des travailleurs d'alors.

Les corporations et les marchés étaient placés sous la surveillance du mohtaseb. Ce magistrat, inférieur au cadi, avait cependant des attributions extrêmement étendues : chargé à la fois de maintenir l'ordre, de vérifier les poids et mesures, de réprimer toute fraude sur la nature et la qualité des marchandises, il devait, pour remplir dignement ses fonctions,

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déployer une activité infatigable, posséder une science juridique étendue, être d'une intégrité parfaite et, enfin, avoir des connaissances pratiques extrêmement variées lui permettant de reconnaître immédiatement les abus. Il devait surveiller à la fois les marchands de grains et de farine, les boulangers, les bouchers, les épiciers, les gargotiers, les pâtissiers, les confiseurs, les marchands d'huiles, de beurre, de graisse, de tissus de toute sorte, les teinturiers, les cordonniers, les orfèvres, les changeurs, les maîtres d'écoles, les médecins, les apothicaires, les vétérinaires, les marchands d'esclaves et de bétail, les tisserands, les chaudronniers, etc. Il devait encore inspecter les bains, assurer l'ordre dans les rues, veiller sur la conduite des Juifs et des Chrétiens. Cette charge, qui se retrouve dans tous les pays musulmans, a survécu, en Espagne, à l'expulsion des Maures, et au XIX^e^ siècle le magistrat qui en était revêtu portait le titre, encore facilement reconnaissable, d'*almotazen*[1].

En temps de guerre, l'autorité militaire avait le droit de réquisitionner, pour les services accessoires de l'armée, les non-combattants qui, en temps de paix, devaient un jour de travail par semaine au souverain.

L'agriculture[2].

On retrouvait, dans l'Empire timouride, la plupart des éléments de la flore et de la faune de l'ancien monde; la Perse était, à ce point de vue, des mieux partagées. « Par la nature variée de ses reliefs, par la diversité du climat de ses provinces,

[1] Cf. Walter Behrnauer, *Mémoire sur les institutions de police des Arabes, des Persans et des Turcs*, apud *Journal asiatique*, 1860-1861, XV, 461-509; XVI, 114-190 et 347-392; XVII, 1-16.

[2] Cf. l'index général de la traduction Beveridge des Mémoires de Bâber, II, 849.

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la Perse présente les conditions les plus disparates pour le développement de la végétation et, fréquemment, deux districts voisins présentent des aspects si divers qu'on a peine à se croire dans un seul et même pays[1]. » Les principales cultures étaient, pour les céréales, le blé, le riz, l'orge, le millet et le maïs; pour les légumineuses, les pois, les haricots, les fèves, les lentilles, les oignons, les vesces, les citrouilles, les betteraves, les navets; pour les arbres fruitiers, le pommier, le poirier, le pêcher, l'abricotier, le brugnon, le figuier, l'amandier, le noisetier; les vignes donnaient d'excellents produits, dont les raisins sans pépins dits *kichmich*, communs à la Perse et à l'Asie centrale; dans le Sud, on trouvait des palmiers, des orangers, des citronniers et des grenadiers. Les melons et les pastèques étaient très communs. Le coton, le chanvre, la garance, le safran, l'assa fœtida, le henné, le pavot étaient fournis par plusieurs provinces; la canne à sucre, cultivée dans la région du golfe Persique, était d'un rendement fructueux; l'indigo venait à la fois du Kerman et de la région de Kaboul; on cultivait en grand le mûrier pour l'élevage du ver à soie au bord de la Caspienne et en Sogdiane; les soies grèges de ces contrées s'exportaient en Europe, où elles étaient très appréciées. Dans les jardins, on voyait surtout des rosiers, des jasmins, des œillets, des tulipes et des iris; dans les forêts, les essences les plus communes étaient le hêtre, le châtaignier, le chêne, le saule, le platane et le peuplier. Beaucoup de gommes et de produits résineux (galbanum, oppoponax, bdellium, sarcocolle, térébenthine) venaient de Perse.

Alors comme aujourd'hui, l'irrigation était une question vitale pour les provinces composant l'Empire timouride : sur bien des points l'eau manque, ou n'arrive que d'une façon irrégulière. « On n'a pas assez remarqué, dit Jaubert de Plassa,

[1] J. de Morgan, *Mission scientifique en Perse*, I, 31-33.

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tout ce que l'agriculture eut de puissance dans les états asiatiques et l'influence qu'elle exerça sur leurs destinées, lorsqu'elle fut secondée par des canaux d'arrosage et protégée par de bonnes lois. La guerre peut, en peu d'années, anéantir l'industrie d'un pays, écraser son commerce, incendier de grandes villes; mais les irrigations sont des sources de richesses qu'on obtient si facilement et si rapidement que l'homme qui les a pratiquées y reste toujours fidèle. . .[1]. » Dès l'antiquité, la Perse et l'Asie centrale étaient couvertes de canaux d'irrigation; Timour et les Timourides les faisaient entretenir à leurs frais, et fixaient le taux des impôts fonciers d'après le mode d'irrigation des terres. On sait que l'abandon de ces mesures a amené la ruine de régions autrefois très prospères.

L'élevage portait sur les animaux suivants : les chevaux, il en existait de nombreuses races; ceux du bord du golfe Persique étaient les plus estimés, et l'Inde en achetait beaucoup; les chameaux et dromadaires, très appréciés en Asie centrale; les ânes, mules et mulets; les bœufs, buffles et zébus; les moutons et les chèvres. Il est souvent question, dans les Mémoires de Bâber, de chasse et de pêche; alors comme aujourd'hui, le gibier était abondant, et les rivières étaient poissonneuses; la Caspienne l'est encore davantage, mais ce n'est que de nos jours qu'on a commencé à l'exploiter méthodiquement.

L'industrie.

La Perse est riche en produits minéraux de toute sorte; au moyen âge on y exploitait les gisements de *mumia* ou pisasphalte,

[1] Henri Moser, *L'irrigation dans l'Asie centrale*, Paris, Société d'éditions scientifiques, 1894, in-8°, p. 141-142. Le chapitre II (p. 141-179) de cet ouvrage est consacré à l'histoire de l'irrigation. Bâber, au chapitre XVIII de ses Mémoires, décrit longuement les systèmes d'irrigation en usage dans l'Inde.

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sorte de goudron minéral dont la variété la plus estimée venait des environs de Darâbdjerd, et les mines de turquoises. La tutie, c'est-à-dire le minerai de zinc et l'oxyde qui s'attache aux cheminées des fourneaux où l'on traite ce minerai, venait également en grande partie de Perse. Le Badakhchan fournissait des pierres précieuses : on retrouve son nom déformé dans l'expression « balais » donnée alors en Europe aux rubis qui en provenaient, et il exportait du lâpis-lazuli dans le monde entier.

Samarkand était, au xv^e^ siècle, un centre industriel de premier ordre. Timour y avait installé des colonies d'ouvriers étrangers, amenés le plus souvent de force : tisserands de soie, armuriers, potiers et verriers de Damas, céramistes de Chine. On y fabriquait d'excellent papier et des velours rouges, *kermezî*, très recherchés.

L'industrie textile était en pleine prospérité. Nous ne reviendrons pas sur ce que nous avons dit des tissus d'art, si riches et variés, de l'époque timouride. Disons seulement quelques mots des tissus usuels. Le *bucherame*, dont le nom est la déformation européenne de celui de Boukhara, n'était pas le grossier bougran d'aujourd'hui; c'était, semble-t-il, une fine toile de lin dont il existait des fabriques à Ispahan. Le camelot (de l'arabe *khaml*) était une sorte de peluche à longs poils, fabriquée dans plusieurs pays, le Kurdistan entre autres, et dont Tauris était l'un des principaux marchés. Les tapis, dont le nom est également d'origine orientale (il vient de *'Attâbiya*, nom d'un quartier de Bagdad), se fabriquaient dans tout l'Orient, et l'Europe faisait à cette industrie une concurrence sérieuse. Enfin la Perse possédait de nombreuses manufactures de soieries qui se vendaient jusqu'en Europe.

La bijouterie d'or et d'argent faisait la richesse de Sultanié.

L'armurerie était une industrie très active. Timour et ses successeurs recherchaient les spécialistes habiles et les fai-

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saient venir, au besoin, de l'étranger. Dans ses Mémoires[1], Bâber décrit, dans tous ses détails, la fonte d'un canon.

La canne à sucre de l'Inde avait été introduite, de très bonne heure, dans le Khouzistân, qui, au VIII^e^ siècle de notre ère, payait aux khalifes un tribut annuel de 30,000 livres de sucre, et ce fut dans ce pays qu'on trouva le moyen de raffiner le jus de canne. Au moyen âge, on retrouve un peu partout la fabrication du sucre, fabrication dont les produits sont très variés : sucre candi, dont le nom, d'origine indienne, est venu chez nous par l'intermédiaire de la Perse et de l'Arabie, sucres en morceaux, en poudre, parfumés à l'essence de rose ou à la violette, etc. L'expression « miel sucré » désignait alors la mélasse. Le *fanîd*, en latin moderne *penidium*, composé de sucre et d'huile d'amandes douces, était une spécialité persane fabriquée surtout dans le Mekrân, et dont la meilleure sorte venait de la ville de Masekân. Ce produit, très estimé, s'exportait au loin, et servait de médicament.

Le commerce.

Marchands ou missionnaires, les voyageurs chrétiens qui se rendaient en Chine par l'Asie centrale furent longtemps très nombreux. Ils disparurent vers le milieu du XIV^e^ siècle, d'une manière à peu près complète, à la suite de la conversion des Mongols à l'Islam et de l'avènement, en Chine, de la dynastie xénophobe des Ming.

Timour fit tous ses efforts pour restaurer le commerce. Écrivant à Charles VI, *re di Fransa*, il l'invitait à lui envoyer des marchands, car, disait-il, c'est par les marchands que le monde prospère. Il fit de sa capitale, Samarkand, un grand centre commercial où les caravanes apportaient, avec les soieries de

[1] Trad. PAVET DE COURTEILLE, II, 253; trad. BEVERIDGE, II, 536.

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la Chine et de la Tartarie, les épices de l'Inde et tous les produits de l'ancien monde[1]. On y vendait quantité de diamants, de pierres précieuses, de musc et de rhubarbe, sans parler des objets, très recherchés au dehors, que fabriquaient à Samarkand les ouvriers, de toutes nations, que Timour y avait amenés de gré ou de force. Toutefois, les Occidentaux ne semblent pas avoir fréquenté ce marché, du moins au début; Clavijo et Josafat Barbaro n'en mentionnent pas[2]. C'était à Tauris et à Sultanié qu'allaient, en grand nombre, Vénitiens et Génois. Depuis Houlagou, la première de ces villes était un important marché international; des caravanes y apportaient les produits de la Chine, amenés par terre, et ceux de l'Inde, débarqués à Ormuz. Dans les nombreux bazars de Tauris on vendait aussi les soies grèges du Guîlân et du Chîrvân, qui alimentaient les manufactures de Lucques et s'écoulaient surtout en Syrie; des marchands persans visitaient Alep, et les Syriens fréquentaient les marchés de l'Azerbaïdjân; la Syrie, d'ailleurs, était en relations directes avec l'Asie centrale. A Tauris encore se vendaient les soieries et les cotonnades de Chîrâz et de Yezd, de l'indigo fin, de la gomme laque, produit très estimé, des aromates, du musc, des huiles, etc. Des caravanes parties de Tauris transportaient ces produits à Constantinople, Alep et Brousse. Quant à Sultanié, ses fabriques de bijoux d'or et d'argent étaient célèbres, et leurs produits auraient suffi à assurer la prospérité du marché local. Chaque année, en juin, juillet et août, une grande foire s'y tenait; on y voyait de nombreux étrangers, des Syriens surtout, et aussi des Occidentaux venus par Caffa et Trébizonde.

[1] Sur ce commerce par voie de terre, cf. Bâber, *Mémoires*, chap. xi, xiv, xvi, xvii et xviii.

[2] Clavijo dit avoir vu à Samarkand des Turcs, des Arabes, des Maures, des Arméniens, des Grecs, des Jacobites, des Chrétiens de divers rites et des adorateurs du feu (Brahmanes ou Parsis?). Avec la Russie, la Chine et la Tartarie, la ville faisait beaucoup de commerce (trad. anglaise, p. 170).

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Au moyen âge, l'Orient vend à l'Europe infiniment plus qu'il ne lui achète. Les tissus d'Occident étaient appréciés en Asie : dès le XIII^e^ siècle, les draps et les toiles de Milan étaient importés chez les Tartares, et les draps européens avaient un débit facile en Perse. L'orfèvrerie de Milan était également estimée. Les fils d'or et d'argent fabriqués à Chypre (d'où le nom « or de Chypre ») et les verreries de Venise ne l'étaient pas moins. De provenance occidentale, le corail allait presque tout entier en Asie, et se vendait jusqu'en Chine. En dehors des produits déjà mentionnés, les principaux objets du commerce du Levant étaient au moyen âge, pour les matières premières :

a. Les épices (clous de girofle, cannelle, galanga, noix muscade, poivre blanc et noir, poivre long). A lui seul, le poivre faisait, pour les deux tiers, les frais de ce commerce des épices qui amena une rivalité si violente entre Venise et le Portugal;

b. Les parfums (ambre gris, musc, encens, benjoin, baume, santal);

c. Divers produits végétaux, comme le camphre, l'aloès, le costus, la scamonée, la gomme laque, la gomme adragant, la manne, la casse, le mastic, le cardamome, le myrobolan;

d. Les matières textiles, et plus particulièrement la soie, le lin et le coton;

e. Les matières tinctoriales : indigo, cochenille, garance, noix de galle, bois du Brésil;

f. Les pierres précieuses (diamants, rubis, turquoises, émeraudes, béryls, saphirs, spinelles) et les perles;

g. L'ivoire;

h. L'alun, objet d'un commerce actif.

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Et, pour les produits fabriqués :

a. Les tissus (draps, toiles, cotonnades, tapis);

b. La verrerie : Timour avait envoyé à Samarkand les meilleurs ouvriers de Chîrâz et de Damas;

c. La porcelaine de Chine, très recherchée en Europe comme en Asie, et qui, bien que très répandue, se vendait fort cher.

Enfin les esclaves des deux sexes furent longtemps l'un des plus importants objets du trafic entre l'Orient et l'Europe. En Italie, on en trouvait de toutes les races; les Tartares étaient les plus appréciés de tous, et les Génois étaient au premier rang des importateurs. Malgré la condamnation formelle du pape Martin V, qui, en 1425, décréta que les marchands d'esclaves seraient excommuniés, s'ils étaient chrétiens, et obligés de porter des marques infamantes, s'ils étaient juifs, et les difficultés de plus en plus grandes qu'il rencontrait en Orient, ce commerce, bien que ruiné vers le milieu du xv^e^ siècle, subsista longtemps encore. A la fin du siècle, il restait à Venise près de 3,000 esclaves.

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Directement ou indirectement, l'Empire timouride communiquait avec la plus grande partie de l'Asie au moyen des caravanes. Les marchandises de la Chine et le musc du Tibet arrivaient par Khotan et la Transoxiane, et parvenaient à Tana après avoir traversé toute l'Asie; celles de l'Inde, par Kaboul et Hérat. Tauris était le point d'aboutissement de plusieurs voies importantes conduisant à l'Est vers l'Asie centrale; à l'Ouest, vers Alep, Brousse, Bagdad et Constantinople; au Sud, vers Ormuz, d'où les caravanes apportaient en soixante jours les produits venus de l'Inde ou d'autres pays par mer. Les marchandises de l'Asie centrale allaient directement en

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Syrie, d'où elles étaient réexpédiées, par deux grandes routes de caravanes, soit sur Damas et le Caire, soit sur Jaffa, Ramlé et Jérusalem. Une grande ligne fluviale, empruntant le Tigre, assurait les transports entre Ormuz, Basra et Bagdad.

L'Europe aussi communiquait avec le Levant, et par suite avec toutes les contrées de l'Asie, par voie de terre. Raguse avait un service de caravanes qui, par les bouches du Danube, atteignait Constantinople. Vers 1454 les Génois, inquiets des progrès des Turcs, organisèrent avec Caffa un service de courriers n'empruntant pas la voie de mer. Quant aux marchands allemands, ils suivaient plusieurs routes, dont les principales étaient : 1° Venise-Frioul-Carinthie-Autriche; 2° Ampezzo-Pusterthal-Brenner; 3° Valangana-vallée de l'Adige; 4° Vérone-Roveredo-Trente; par elles, ils gagnaient Lemberg et Caffa, la Russie et l'Orient. Entre 1415 et 1420, l'empereur Sigismond, voulant ruiner le commerce vénitien, leur proposa de suivre la route de Hongrie pour aller au Levant. Le sud de l'Allemagne était ainsi ravitaillé par terre; nous verrons que le nord l'était par mer.

Malacca et Ormuz sont, au xv^e^ siècle, les grands ports d'échange de l'Asie. Les jonques chinoises ne vont plus au Malabar, mais à Malacca, d'où ont lieu des départs réguliers pour Cambaye et Ormuz, chercher les produits de l'Indochine et de l'Insulinde. Tous les ports de l'Inde sont en relations directes avec Ormuz, d'où les marchandises sont réexpédiées en Asie antérieure et en Europe[1]. Les Arabes visitent Bornéo et l'Indochine, le golfe Persique et la mer Rouge; dans l'Inde, Diu est leur principal port d'attache. Aden sera très fréquenté jusqu'en 1424; Djedda, qui le rem-

[1] «Hormuz is a vast emporium of all the world; you find there people and goods of every description, and whatever thing is produced on earth you find it in Hormuz. But the duties are high, one tenth of everything.» Athanase Nikitine, *apud* H. R. Major, *India in the fifteenth Century*, III, 19.

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placera alors, recevra des vaisseaux persans, indiens et même chinois, dont les cargaisons seront transportées au Caire par des caravanes, ou embarquées pour Tor, si elles sont trop lourdes. Grâce à ses voisins, l'Égypte est en relations avec tout l'ancien monde; le Caire est l'un des plus grands marchés d'alors, et Alexandrie un port de transit comparable à Ormuz, où l'on trouve les produits de l'Inde et de l'Extrême-Orient à côté de ceux de l'Europe. La route qui relie ces deux villes, si courte qu'elle soit, n'en est pas moins une voie commerciale de premier ordre.

Des services de bateaux existaient sur la Caspienne; ils transportaient par exemple la garance de Géorgie qui, empruntant ensuite la voie de terre, allait jusque dans l'Inde.

La mer Noire et la Méditerranée étaient parcourues par des vaisseaux européens, pour la plupart vénitiens et génois [1]. Grecs, Français et Italiens, qui avaient soutenu Byzance contre les Turcs, firent des avances à Timour, quand il eut vaincu ces derniers, afin d'obtenir sa protection. Toutefois le régent de l'Empire byzantin, Jean, profita de l'absence de l'empereur Manuel, hôte de Charles VI de France, pour passer, au nom de tous les États de Romanie, c'est-à-dire de Grèce, une convention commerciale à laquelle adhérèrent Venise, Gênes et les chevaliers de Rhodes (1403). A cette époque, les nombreuses colonies européennes du Levant étaient tributaires, soit des Ottomans, soit des Turkmènes d'Asie Mineure, et divisées par les rivalités de leurs métropoles avec qui, d'ailleurs, elles n'étaient pas toujours d'accord. Gênes et Venise se livrèrent

[1] Les Vénitiens avaient des services réguliers pour les différents ports du Levant, le Maghreb et l'Égypte : ils avaient parmi leurs ports d'attache Tunis et Alexandrie. On sait que les Génois avaient d'importantes colonies dans la mer Noire, où Michel Paléologue permettait aux Égyptiens d'envoyer, chaque année, un vaisseau qui revenait avec une cargaison composée surtout d'esclaves.

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longtemps des luttes acharnées (1396-1410); la première était l'alliée de la France et cherchait par tous les moyens à se concilier les Turcs, auxquels Ancône et Raguse multipliaient les avances; Venise, au contraire, leur était hostile : elle participa en 1453 à la défense de Constantinople; à ce moment, les Génois eurent une attitude équivoque. Après la prise de la ville, Vénitiens et Génois envoyèrent des ambassades au vainqueur; mais leur situation fut très amoindrie, et Mehmed II réserva sa bienveillance aux rivaux les plus acharnés des Vénitiens : les Florentins. Il imposa en outre des tributs aux principautés de l'Archipel, qui passèrent bientôt sous sa domination; en 1482, Venise ne possédait plus une seule colonie et payait elle-même tribut. En 1498, les Turcs, excités par des villes italiennes rivales, lui déclaraient la guerre, et le traité qui la termina, cinq ans plus tard, fut désastreux pour Venise. Florence, qui s'était annexé Pise, était, au milieu du xv^e^ siècle, une puissance maritime importante; à la fin du siècle, elle occupera le premier rang et organisera des départs réguliers pour l'Empire ottoman, la Syrie, la mer Noire, l'Égypte et le Maghreb. Les sultans ottomans se défiaient des grandes puissances maritimes, de Venise en particulier : cela explique leurs bonnes dispositions à l'égard de Florence, dont ils pensaient n'avoir rien à craindre; à part une interruption de quelques années (1465-1472), les Florentins furent toujours bien vus à Constantinople. La politique des Turcs porta ses fruits : ayant peu de relations avec les peuples d'Asie, avec qui ils étaient souvent en guerre, ils n'importaient guère de produits asiatiques, et ceux-ci, n'arrivant plus en Europe, y furent remplacés par des produits turcs. Notons enfin l'essor tardif de Sienne[1], et surtout de Raguse, qui exportait beaucoup d'étoffes. Ancône aussi avait sa marine.

[1] Heyd, *op. cit.*, II, 255 et suiv.

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Comme les Italiens, les Catalans perdirent leurs colonies de Grèce; mais ils conservèrent une situation de premier ordre à Constantinople et en Égypte. Chassés de ce dernier pays en 1432, ils y revinrent plus puissants que jamais. A la fin du xv^e^ siècle, la colonie européenne d'Alexandrie ne se composait que de Catalans, de Vénitiens et de Génois. Par leur entremise, les verreries de Mésopotamie avaient un débit assuré en Espagne, et les produits espagnols pénétraient jusqu'au centre de l'Asie. Les bateaux de Florence et de Gênes faisaient aussi communiquer la Catalogne et l'Aragon avec le Maghreb et le Levant. On sait enfin que les pirates catalans parcouraient toute la Méditerranée.

Bien qu'à peine représentée à Constantinople et à Péra, la France faisait beaucoup de commerce avec le Levant, mais le faisait surtout par l'intermédiaire des Vénitiens. Montpellier, Narbonne, Aigues-Mortes étaient ses ports les plus fréquentés; leur ensablement les fit remplacer par Marseille. En 1432, Jacques Cœur envoya des galères en Syrie et en Égypte; il avait de grands projets, que sa disgrâce ne lui permit pas de réaliser; toutefois les vaisseaux français, grâce à ses efforts, visitèrent longtemps l'Égypte. François II, duc de Bretagne, signa une convention commerciale avec ce pays en 1479. De nombreux Orientaux fréquentaient les foires de Lyon, et les toiles de Champagne étaient très appréciées au Levant. Voulant enlever aux Italiens le commerce des épices, Louis XI en donna le monopole à un syndicat qui, tous les ans, armait quatre galères. Mais un rapprochement avec les Vénitiens eut lieu en 1478; en 1484, les États Généraux proclamèrent la liberté du commerce, et la concurrence française disparut.

Les marchandises de provenance orientale étaient apportées dans la mer du Nord par les Vénitiens et les Génois; les Allemands venaient les chercher à Gand et à Anvers, et la

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Hanse, qui avait un monopole de fait pour la navigation de la Baltique, les répartissait entre l'Allemagne du Nord, la Russie et les pays scandinaves.

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Le commerce d'Orient fut ruiné, à la fin du xv[e] siècle : 1° par la disparition des colonies italiennes de la mer Noire : les Ottomans, qui s'en étaient emparés, ne laissaient plus de routes praticables entre l'Europe et la Perse du Nord ; 2° par la découverte, due aux Portugais, de la route maritime des Indes ; elle eut pour conséquence la suppression du transit des épices par la Perse, et une âpre rivalité commerciale entre les Vénitiens, jusque-là importateurs des épices en Europe, et les Portugais, désormais mieux placés qu'eux pour se livrer à ce trafic. Venise, selon le moment, cherchera un terrain d'entente avec le Portugal, ou bien s'adressera au sultan d'Égypte pour ruiner la navigation de ses concurrents et soulever l'Inde contre eux. Diverses interventions se produisent : en 1503, une Compagnie allemande est fondée pour le commerce avec l'Inde ; des conflits avec les chevaliers de Rhodes provoquent des représailles dont les Vénitiens sont les premiers à souffrir, et les Français, alors en guerre avec eux, cherchent à prendre leur place : Louis XII enverra, en 1512, un ambassadeur au Caire. Les Vénitiens venaient de rentrer en grâce auprès du sultan d'Égypte quand, en 1517, ce pays fut conquis par les Ottomans ; ils eurent de la peine à obtenir des vainqueurs le maintien de leurs privilèges, et, sauf dans la mer Rouge, ne purent enrayer le brillant essor maritime et commercial des Portugais. Les deux catastrophes finales, comme les appelle Heyd, c'est-à-dire l'apparition des Portugais dans l'Inde et la conquête de l'Égypte par les Ottomans, devaient changer du

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tout au tout la vie économique de l'ancien monde au début du XVI^e siècle[1].

Les monnaies.

De l'excellente notice consacrée par M. Stanley Lane Poole aux monnaies timourides[2], il résulte que l'on ne frappait guère que des pièces d'argent. Celles de cuivre et de bronze sont rares, et le British Museum ne possédait pas de monnaies timourides d'or, au moment où le savant numismate en faisait le catalogue. Le poids des pièces d'argent variait de 1 gr. 5 à 6 grammes, et leur diamètre de 13 à 28 millimètres : celles de grande dimension sont restées le plus longtemps en usage. Le module des pièces de billon atteint toujours, et parfois dépasse, celui des monnaies d'argent de la plus forte valeur.

En général, la frappe des monnaies timourides est dépourvue d'élégance. L'un des côtés porte la profession de foi musulmane, suivie des noms des quatre premiers khalifes; sur l'autre on lit le nom du souverain régnant, ses titres, une invocation en sa faveur, le nom de la ville où la pièce a été frappée, et la date. Sur les monnaies du British Museum, M. Stanley Lane Poole a constaté l'existence de vingt-huit hôtels des monnaies répartis sur tous les points de l'empire.

V

LA VIE DOMESTIQUE.

L'habitation.

Nous avons donné ailleurs un aperçu de l'architecture timouride; il suffira d'en rappeler, ici, les caractères essentiels; grands vestibules, porches très hauts, réduits non fer-

[1] *Op. cit.*, II, 504-552.

[2] *Catalogue of Oriental coins in the British Museum*, VII, XXVIII-XXXV.

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més à l'entrée des voûtes, que décrit Clavijo. Plusieurs détails rappellent manifestement la tente sous laquelle les Mongols, peuple nomade et guerrier, passaient une partie de leur existence : Timour et sa suite se déplaçaient volontiers, et Clavijo s'est longuement étendu sur son campement. La tente royale, supportée par trente-six piliers de bois de la grosseur d'un homme, décorée d'étoffes de soie et de tapis de couleurs vives, comprenait plusieurs salles et était entourée d'une barrière formée, elle aussi, d'étoffes de soie. Une mosquée démontable, construite en bois, peinte en bleu et or, accompagnait Timour dans ses voyages. Il est curieux de constater que la description de son camp pourrait être, à fort peu de chose près, celle du camp de Feth'alî Châh, qui vivait quatre siècles plus tard. Notons aussi qu'à Samarkand la justice était rendue sous des tentes [1].

Les jardins, publics et privés, étaient nombreux dans les villes. A Samarkand, la plupart des maisons en étaient entourées; ils donnaient à la capitale l'aspect d'une immense agglomération de jardins.

Sur l'ameublement, nous savons peu de chose. Bâber lui-même, qui parle volontiers des détails de la vie privée, mentionne rarement des meubles ou ustensiles, et M^me^ Beveridge, qui a analysé ses *Mémoires* de la façon la plus minutieuse, n'y a relevé que les termes suivants, empruntés à la vie domestique : porcelaine, décoration pour les fêtes, coupe à boire, combustible, outre, gong, couteau, lampe, litière, cordage, éponge, cuillère, flambeau, nappe, cure-dents. En tout et pour tout, quinze mots seulement [2]. Clavijo nous apprend que

[1] Cf. le chapitre VI de CLAVIJO, et la note de la page 144 de la traduction anglaise.

[2] Cf. la traduction des *Mémoires*, II, 855 (Index. III. General), s. v° « Domestic appliances ».

IMPRIMERIE NATIONALE.

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l'or, l'argent et les pierres précieuses étaient prodigués dans l'ornementation de la demeure de Timour : il y vit, entre autres, un coffre d'or, une table d'or couverte d'émeraudes, un chêne d'or sur les branches duquel étaient des oiseaux du même métal. Dans les repas, on ne se servait que d'ustensiles d'or ou d'argent.

Le costume.

Après leur conversion à l'Islam les Mongols avaient, en général, conservé leur costume. Le turban n'était guère porté que par le clergé et les hommes de loi : Hosein Baykara en mettait parfois un, de petites dimensions et orné d'une plume; mais il portait le plus souvent le bonnet mongol, *burk*, ou le kalpak turkmène. On distinguait, dans le costume, la tunique, tantôt longue, tantôt courte, et serrée par une ceinture, la veste, la pelisse, le manteau et le capuchon. Un vêtement complet était appelé *ton;* celui que portaient les militaires était dit *artmak*. Il y avait des manteaux spéciaux pour la pluie et des vêtements de bain. La fourrure servait à la fois pour le bonnet et pour le reste du costume, qui était accompagné de divers ornements et accessoires : aigrettes, colliers, agrafes, etc. [1]. Le costume de cour exigeait des étoffes de prix : satin, velours et autres tissus de soie, et on l'ornait à profusion de perles et de pierres précieuses. Il en était de même pour les armes.

Le costume des femmes n'était pas moins splendide. Clavijo nous parle de la haute coiffure (*chèoukèlè*), empruntée à l'ancien Iran et au Khârezm; de la robe de soie rouge à plis et sans manche, fermée jusqu'au cou et pourvue d'une longue traîne et décorée de pointes d'or; du voile accompagné d'un bonnet de drap rouge, en forme de casque, orné de perles, de

[1] *Op. cit.*, II, 855.

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rubis et d'émeraudes, et qu'accompagnaient de longues plumes blanches descendant sur les yeux : Vambéry a retrouvé ce dernier ornement dans la parure des femmes turkmènes du XIX^e^ siècle [1].

Bien que quelques Timourides, 'Omar Cheikh surtout, aient donné l'exemple de la simplicité, le goût du faste survécut à Timour. Hoseïn Baykara, notamment, affectait une grande élégance, imitée par son entourage. Même dans sa vieillesse, il portait des vêtements de soie de couleur voyante, rouge ou verte. A la cour du sultan Mahmoûd, l'émir Eyyoûb était considéré comme un véritable *arbiter elegantiarum*. Le don d'une *khil'at*, c'est-à-dire d'un vêtement porté par le souverain ou l'un des princes (c'était, d'ordinaire, une robe de soie richement ornée), était considéré comme une faveur insigne. Clavijo reçut de Timour plusieurs *khil'at*.

La nourriture [2].

Les Mongols étaient un peuple de chasseurs, et les prescriptions du *Yasa* montrent qu'ils demandaient à la chasse, réglementée soigneusement, et pour laquelle les soldats pouvaient faire usage de leurs armes, la partie essentielle de leur nourriture. La loi mongole déclarait comestibles le sang et les entrailles; on mangeait également le lièvre, bien que la loi musulmane le regarde comme impur. La viande de mouton était de consommation courante; celle de chameau l'était aussi; quant à celle de bœuf, on en mangeait relativement peu. Il y avait plusieurs manières de les accommoder : en brochettes, en ragoût, etc.; on les mangeait généralement rôties, et parfois on les faisait sécher pour les conserver. La pêche était à la

[1] *Gesch. Bochara's*, II, 217 (note).

[2] Cf. la traduction des Mémoires de BÂBER par M^me^ BEVERIDGE, II, 856.

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fois un passe-temps et une ressource permettant de varier l'alimentation.

Céréales, légumes et fruits de toute sorte abondent en Perse et dans l'Asie centrale, et ils y donnent des produits excellents. Bâber parle, entre autres mets, de la soupe de millet, de la conserve de mangues, des beignets, de plats préparés avec des graines de lotus. Le lait et ses divers produits, le fromage surtout, et le miel, tenaient une place importante dans l'alimentation. Des épices et des condiments étaient achetés dans l'Inde et en Extrême-Orient; on en faisait venir aussi du bétel. Très développée, l'industrie du sucre était une source importante de richesses, et ses produits, variés et de vente facile, faisaient l'objet d'un grand commerce.

VI

L'ARMÉE DE TIMOUR ET SES SUCCESSEURS [1].

Recrutement et effectifs.

Le noyau de l'armée était formé par les quarante tribus mongoles : elles étaient tenues de fournir, en temps de guerre, des contingents en rapport avec leur importance. Les douze tribus d'élite formaient la garde royale; les autres servaient dans la réserve [2]. Désireux d'augmenter ses effectifs, Timour incorpora dans son armée, non seulement ses nouveaux sujets, mais encore tous ceux des prisonniers de guerre qui acceptaient d'entrer à son service; il faisait remettre en liberté les autres,

[1] Voir dans l'index général des Mémoires de Bâber, trad. Beveridge, II. 860-861, la nomenclature des termes militaires.

[2] Timour, *Institutes*, trad. Langlès, 98-100.

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et avait interdit de les tuer [1]. Chaque *on-bachi* « chef de dix » : c'était le premier grade militaire, était tenu de combler sans délai les vides qui se produisaient dans son escouade. Les recrues étaient incorporées sans distinction d'origine et sans condition de taille, et traitées sur un pied de parfaite égalité. Plusieurs fois les Timourides prirent à leur service des chefs et des cavaliers uzbeks; ils admettaient également dans leurs troupes les déserteurs des armées ennemies.

Timour allant combattre Bayézid avait sous ses ordres 800,000 hommes : ce chiffre semble avoir été un maximum qui ne fut jamais atteint dans la suite. Parmi les souverains rivaux, Hasan ʿAlî, le dernier sultan de la dynastie du Mouton-Noir, disposait de 200,000 hommes, mercenaires recrutés à grands frais et qui d'ailleurs devaient le trahir; Ouzoun Hasan avait 50,000 cavaliers. Dans ses règlements militaires, Timour ne prévoyait pas de formations de plus de 40,000 hommes.

En cas de besoin, on offrait aux recrues des avantages pécuniaires, pour provoquer les engagements. ʿAbdol-Latîf dépensa ainsi ses trésors. Lors d'un danger pressant, on avait recours à la levée en masse; en 855 (1452), au cours de la lutte entre Bâber Mîrzâ et Sultân Mohammed, les deux adversaires la décidèrent : à Samarkand on plaça, à chaque créneau, un Persan et deux Turcs, et tous les notables de la ville se concertèrent pour organiser la défense.

Hiérarchie, soldes et pensions [2].

L'armée comprenait des soldats de la ligne et des soldats d'élite : ces derniers seuls portaient des armes défensives. Tous pouvaient prétendre aux grades, qui ne devaient être donnés

[1] *Op. cit.*, 40, 41, 77, 120, 128.
[2] *Op. cit.*, 47-52, 71-88.

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qu'au mérite : en principe toute action d'éclat valait une promotion. Chaque officier nommait ses subordonnés immédiats; il pouvait, non seulement les punir, mais encore les révoquer en cas d'indignité. Les chefs des douze tribus d'élite étaient pourvus de grades militaires; il n'y avait pas d'assimilation pareille pour les *oymak*, ou chefs des vingt huit autres tribus. Les prisonniers de guerre et les sujets des provinces conquises admis dans l'armée recevaient des grades en rapport avec leur mérite. La hiérarchie était la suivante :

1° *On-bachi* « chef de dix »;

2° *Yuz-bachi* « chef de cent », ou de *kouchoun;*

3° *Ming-bachi* « chef de mille »[1];

4° Émirs ou généraux, au nombre de 300, dont 100 *on-bachi*, 100 *yuz-bachi* et 100 *ming-bachi;*

5° Émirs de premier rang, c'est-à-dire généraux en chef : ils étaient au nombre de douze, commandant chacun de 1,000 à 12,000 cavaliers; le douzième qui en avait 12,000 sous ses ordres, était le lieutenant du généralissime;

6° Le généralissime, *èmir ul-umèrâ*, qui était lui-même le lieutenant de Timour.

Chaque officier général avait un adjoint, *vèlî* ou *keutèl* qui, en cas de vacance, lui succédait dans son grade et dans son emploi.

La solde était payée tous les ans ou tous les six mois, sur les revenus des provinces, suivant une répartition rigoureuse-

[1] Ces trois grades ont été conservés dans l'organisation militaire moderne de la Turquie et de l'Égypte : ils correspondent, dans l'armée, à ceux de caporal, capitaine et major; dans la marine, à ceux de quartier-maître, lieutenant de vaisseau et capitaine de corvette. *Ming-bachi* se dit maintenant *bin-bachi*.

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ment surveillée, et sur mandat de l'État. Les intendants étaient chargés d'y veiller, et tous les trois ans une enquête était faite : si la situation d'un fief militaire[1] était mauvaise, l'officier qui en touchait les revenus ne recevait rien pendant les trois années suivantes.

Le simple soldat était payé en raison du nombre et de la valeur de ses chevaux : il en possédait de un à quatre. Le *on-bachi* recevait 10 payes de soldat; le *yuz-bachi*, 20, et le *ming-bachi*, 60. Le généralissime recevait 10 payes d'officier : c'était aussi le traitement du chef du Divan et des vizirs. Les fils de soldats recevaient une paye spéciale. Les vieux soldats avaient droit à une pension : le régime des pensions et des soldes fut régularisé sous Châhroukh.

Organisation générale et tactique[2].

Timour, dans ses Institutes, nous donne la composition et l'ordre de bataille d'un corps de 12,000 cavaliers attaquant une force inférieure. Ce corps devait former 9 divisions : 1 de bataille, 3 de l'aile droite, 3 de l'aile gauche, 1 pour l'avant-garde et une autre placée en vedette. La veille du combat, le général commandant, que l'inspecteur général, *âriz-i lèchkèr*, avait toujours le droit de changer, traçait les lignes. Les instructions données devaient être exécutées ponctuellement, et les troupes abordaient l'ennemi en criant *Allâh akbar!* « Allah est très grand! ».

Avec 40,000 cavaliers, commandés par l'un des fils de Timour assisté de deux émirs et d'un état-major, on formait 12 escadrons d'escorte commandés par des chefs de tribus, et 14 divisions, dont 6 pour l'aile droite (3 pour l'avant-garde

[1] *Timar, djâguir* ou *yetoul*, ce dernier mot signifiant à la fois « terre », « domaine » et « pension ».

[2] *Op. cit.*, 139-157.

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et 3 pour l'arrière-garde), et 6 pour l'aile gauche. La grande avant-garde, placée derrière le corps de bataille, comprenait les archers, les soldats armés d'épées, les lanciers, une réserve d'hommes s'étant distingués par leur vaillance et les contingents des tribus ne faisant pas partie de l'élite. Aucun officier ne pouvait marcher sans ordres. L'attaque commençait par une charge à l'épée et un tir intense. Les divers mouvements étaient annoncés par des sonneries de trompettes.

La garde du camp comprenait, en permanence, 12,000 cavaliers formant quatre divisions. Un *ketaoul,* grand prévôt, était chargé du maintien de l'ordre; il disposait de quatre corps de *tchapkountchi,* sorte de gendarmerie mobile. Il y avait en outre des troupes légères, commandées par des *karaoul,* des artilleurs, des techniciens chargés de la manœuvre des machines de guerre, catapultes ou mangoneaux, dont l'introduction de l'artillerie n'avait pas fait abandonner l'usage[1], et des corps de pionniers : les mines et les tranchées avaient, dans les guerres d'alors, l'importance qu'elles ont reprise de nos jours. Les forteresses, confiées à des gouverneurs appelés *ketaoul*, étaient toujours mises en état de défense : Châhroukh avait relevé les défenses d'Hérat, et ʿOmar Cheikh avait fait d'Akhsi, sa capitale, la place la plus forte de la région.

Les adversaires des Timourides, Turkmènes du Mouton-Blanc ou du Mouton-Noir et Uzbeks, avaient recours volontiers aux guérillas, et cette méthode leur donnait de bons résultats. C'est en faisant la « guerre à la cosaque », en privant l'ennemi de vivres et de fourrages, que Ouzoun Hasan put triompher de Aboû Saʿîd. Les Uzbeks vainquirent également

[1] D'autres moyens plus primitifs encore se retrouvent au xv^e^ siècle. En 857 (1453), les habitants de Samarkand repoussaient les assaillants en versant sur eux de l'huile bouillante, ou en leur lançant des matières enflammées.

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Olough Beg et s'avancèrent jusqu'à Khodjend, pillant tout sur leur passage.

Le ravitaillement et le transport des bagages se faisaient au moyen de chariots et d'animaux de bât, parmi lesquels on employait le chameau et l'éléphant; ce dernier servait aussi à transporter le matériel de l'artillerie. Les armées en campagne avaient des ouvriers spéciaux pour réparer et entretenir l'armement; au besoin elles réquisitionnaient la population civile pour les services accessoires. Des ponts de bateaux faisaient partie de leur matériel.

Discipline, récompenses et punitions [1].

Timour avait soumis ses troupes à une discipline très sévère, que ses successeurs ne surent pas toujours maintenir. Les révoltes, les désertions et les trahisons furent nombreuses, de même que les actes de pillage : les soldats de Nâsir Mîrzâ, fils de ʿOmar Cheikh, et de ʿAbdol-Latîf, en donnèrent l'exemple. Sous Hoseïn Baykara, le vizir Medjd ed-Dîn Mohammed avait réorganisé l'armée; mais il fut bientôt disgrâcié. Le sultan Bâber remit en vigueur les règlements de Timour, et se montra notamment impitoyable pour les pillards. Un officier qui enfreignait les ordres reçus était puni de mort; le même châtiment attendait les révoltés. Hoseïn Baykara fit massacrer tous les prisonniers de guerre ayant pris le parti de son fils, Badîʿoz-Zemân. Le *Yasa* punissait aussi de mort les espions.

En dehors de l'avancement, le mérite faisait obtenir des récompenses, soit honorifiques, soit pécuniaires, telles que le titre de *Behâdour* « Vaillant », l'enseigne dite *tough* [2], l'éten-

[1] *Op. cit.*, 80-88.

[2] C'était une queue de yak, *bos grumiens* de Pallas; cf. Defrémery, *Jour-*

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dard et la timbale, le commandement d'un corps d'armée, d'une province ou d'une ville, ou une pension.

Équipement, armement et habillement (1).

Le simple cavalier avait de un à quatre chevaux; les officiers en avaient un nombre beaucoup plus élevé, en rapport avec leur grade, et qui atteignait 300 pour le généralissime. Les gradés avaient droit à une tente individuelle; les soldats d'élite, à une tente pour cinq hommes; ceux de la ligne, à une tente pour dix-huit.

Seuls, les officiers portaient la cotte de mailles; le casque et la cuirasse n'étaient donnés qu'aux troupes d'élite, et celles de la ligne n'avait pas d'armes défensives autres que le bouclier (2). Timour portait, dans les grandes occasions, une armure antique donnée par le roi de Géorgie et que, d'après la tradition, le roi David avait forgée de ses mains (3).

Les armes offensives étaient, du temps de Timour, l'épée, l'arc, les flèches, portées dans un carquois, la lance et la masse d'armes; on y ajouta plus tard le marteau d'armes, *kulung*. Au xv^e^ siècle les armes à feu firent leur apparition dans l'armée mongole : le fusil à mèche fut donné aux troupes; l'artillerie disposa de mortiers, de pierriers et de couleuvrines (4),

nal des Savants, 1873, p. 379, et la savante note donnée par M^me^ Beveridge dans sa traduction de Bâber, Appendices, II, 45-47. Plus tard on remplaça la queue de yak par une queue de cheval. Chez les Uzbeks le souverain était accompagné d'un cavalier portant un étendard appelé *chech tougha* et une trompette dont, seul, il avait le droit de sonner. Le *tough* était fixé à une hampe et surmontait un pavillon triangulaire.

(1) *Op. cit.*, 88-90.

(2) Les officiers faisaient porter le leur par un écuyer qui, comme le fabricant de boucliers, s'appelait *kalkatchi*.

(3) *Institutes*, trad. Langlès, 257.

(4) Au siège de Constantinople, en 1453, les Ottomans disposaient de 130 bouches à feu de divers calibre et d'un canon géant, fondu à Andrinople

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mais les catapultes et les engins de guerre analogues restèrent en service de longues années encore. On s'en servait pour lancer sur l'ennemi des blocs de pierre, des flèches empoisonnées, des récipients remplis de feu grégeois. En temps de paix, sauf pendant la période de la chasse, les armes étaient retirées aux troupes pour être réparées et conservées dans les arsenaux.

Enfin les règlements de Timour portaient que chaque soldat devait être pourvu des outils et effets suivants : scie, alène, sac, aiguilles à emballer et à coudre, havresac de cuir, bonnet, bottes, pantoufles, guêtres et *bakdè :* ce dernier terme désignait, croit-on, une pièce de cuir recouvrant le pied de la botte. Aucun officier ou soldat ne pouvait se présenter au conseil sans la tenue militaire complète, ni sans épée.

par un Hongrois nommé Urbain : traîné par quarante paires de bœufs, ce canon envoyait à 2,000 mètres un boulet de pierre pesant 1,300 livres, mais ne pouvait tirer plus de sept ou huit coups par jour : après chaque décharge, il fallait le laisser refroidir. Les Ottomans avaient aussi des balistes et des tours roulantes pour donner l'assaut. Les Grecs, dont l'artillerie était de beaucoup inférieure à celle des assiégeants, y suppléaient au moyen de plomb fondu, d'huile bouillante et de feu grégeois. Les bombes et les mortiers sont des inventions italiennes relativement récentes : ils datent de 1467.

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DEMOCRACY AND THE JAPANESE GOVERNMENT

By

HIROSHI SATO

Submitted in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy in the Faculty of Political Science, Columbia University, New York, 1920

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TO

COUNT SOYESHIMA

HON. THOMAS BURKE

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PREFACE

The book was prepared in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Columbia University in the City of New York. The major work in this University was done in Political Science under the direction of Professor Howard Lee McBain. The writer was at the same time studying under Professors Powell and Beard.

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HIROSHI SATO

New York City
December 1, 1920

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Chapter I

DEMOCRACY AND THE EXECUTIVE DEPARTMENT

To find out the degree of democracy of a nation, one must study the system of government through which the affairs of the nation are administered. Democracy depends upon a system of fundamental law, namely, a constitution. A government is democratic just in proportion as it responds to the will of the people. If a constitution is erected as a bulwark against public opinion, the government created by it is undemocratic just in proportion as it is inelastic. This follows from the fact that in a society in which the people are really sovereign, a constitution is merely the means of securing the supremacy of public opinion, and not of thwarting it. Hence it necessarily follows that any constitution which is democratic in spirit must yield to change in public opinion.

With this view let us examine the working of the Japanese Constitution rather than its theory. However, to understand the true nature of the Japanese government, one must take into consideration not only the Constitution proper, but its supplementary laws as well.

The government of Japan is in theory an absolute monarchy, in form a limited, constitutional monarchy, and in fact a thoroughgoing bureaucracy. At its head stands the sovereign, who is at the same time the supreme executive, a co-ordinate legislative authority (and, in theory, much more than that), the fountain of justice and of honor, the commander-in-chief of the army and navy, the conservator of peace, and the guardian of the helpless and the needy. In law, all land is held, directly or indirectly, of him. Technically, the sovereign never dies; there only a demise of the crown, *i. e.*, a transfer of regal authority from one person to another, and the state is never without a recognized head. Article I of the Constitu-

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tion says: "The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal." So far as the Constitutional provisions are concerned, there is no country where the theory of a divine right to rule is acknowledged to such a degree. No Stuart ever even dreamed of such pretensions.

As to legislative authority, the Emperor exercises his power with the consent of the Diet.[1] And as the Emperor, by Article VI, "gives sanction to laws and orders them to be promulgated and executed," it naturally and logically follows, according to Prince Ito that "he also possesses the power to refuse his sanction."[2] In respect to this, Dr. Uyehara says: "The sanction of the sovereign to a bill is the final step in Japanese legislation. The Emperor is absolutely free either to give or to refuse sanction. Therefore, it may be said that the Emperor has an absolute veto over all legislation. There is no constitutional way for the Diet to override the veto of the Emperor."[3] Therefore it seems that there is no particular difference between a constitutional amendment and an ordinary law, except that the former must be initiated by the Emperor and be approved by a two-thirds majority of both Houses.[4] The Emperor is entirely free to block any legislation, whether it is a constitutional amendment or an ordinary bill.

The assertions that have been made represent with substantial accuracy the ultimate theory of the status of the Emperor in the governmental system. In respect to the form and practice of that system, however, it would hardly be possible to make assertions that would convey a more erroneous impression. Therefore, to understand the place of the Emperor in the Japanese scheme of government, we must study

[1] Article XXXVII.

[2] Ito, *Commentaries*, p. 11.

[3] Dr. Uyehara, *Political Development of Japan*, p. 128.

[4] In regard to amendment, Prince Ito says: "The right of making an amendment to the Constitution must belong to the Emperor himself as he is sole author of it." (*Commentaries*, p. 340.) This means that all amendments must be set in motion by the will of the Emperor. The people must wait until the sovereign recognizes the necessity of amending the Constitution.

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the real working of the Constitution. The extent of the discrepancy between theory and fact will become apparent upon an examination into the operations of the executive and the legislative departments of the government.

It is necessary first of all to examine the function of the Cabinet. All administrative functions are carried on by the Cabinet Ministers. The Cabinet in a collective sense has no formal recognition in the Japanese Constitution. Article LV says: "The respective Ministers of State give their advice to the Emperor and are responsible for it. All laws, Imperial ordinances, and Imperial rescripts of whatever kind that relate to the affairs of State, require the countersignature of a Minister of State." In order, therefore, to obtain any clear conception of the functions of ministers, it is necessary to turn to a group of Imperial ordinances issued in 1885–1889, which are still in force by virtue of Article LXXVI of the Constitution providing that "existing legal enactments such as laws, regulations, ordinances, or by whatever names they may be called shall, so far as they do not conflict with the present Constitution, continue in force." According to these Imperial decrees, ministers are responsible for all matters falling within their sphere, and are empowered to issue departmental ordinances, to present for the Cabinet's consideration drafts of laws relating to their departments and projects for amendment or abrogation of existing laws, to organize their respective departments, and to delegate to their subordinates any of their numerous functions except the countersigning of laws or ordinances, personal reports to the Emperor, voting in the cabinet meetings, and the issue of departmental ordinances.

This raises two questions: first, to whom are the ministers responsible? second, are they responsible individually or collectively? As to these questions, Marquis Ito has explained the text, making a positive statement that the members of the Cabinet are charged with responsibility to the Emperor, each within the limits of his jurisdiction for every public

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act of the sovereign. The evil of a system of joint responsibility would be, Marquis Ito holds, that the power of party combination would ultimately overrule the supreme power of the Emperor.[5]

The objection of the framers of our Constitution to joint responsibility of the Ministers is said to be their fear that this would result in encroachment upon the power of the Emperor. Marquis Ito observes:

> In some countries the cabinet is regarded as constituting a co-operative body; the Ministers are not held to take part in the conduct of the government each one in an individual capacity, but joint responsibility is the rule. The evil of such a system is that the power of party combination will ultimately overrule the supreme power of the Emperor. Such a state of things can never be approved of according to our Constitution. But with regard to important internal and external matters of State, the whole government is concerned, and no single department can therefore be exclusively charged with the conduct of them. As to the expediency of such matters and as to the mode of carrying them out, all the Ministers of State shall take united counsel, and none of them is allowed to leave his share of the business to be a burden upon his colleagues. In such matters, it would, of course, be proper for the Cabinet to assume joint responsibility.[6]

The Imperial Decree of the year 1889 provides that all laws and Imperial ordinances, affecting the administration as a whole, shall bear the counter-signature of the Minister President as well as that of the Minister from whose Department they directly emanate. It is by this provision and also by the constitutional provision of Article LV, that the Imperial Ordinance dissolving the Diet requires the counter-signature of each of the Cabinet Ministers in order to establish a joint responsibility. When any member of the Cabinet refuses to countersign, the Cabinet cannot dissolve the Diet.[7] Such, at least, is the theory of the law.

[5] *Commentaries*, pp. 94–95.

[6] *Ibid*, 94–95.

[7] Declaration of war and peace also requires counter-signature of each of the Cabinet Ministers.

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It is said that the object of instituting the cabinet system in 1885 was to concentrate the administrative power in the hands of the Minister President, to make him responsible for the general policy of the government by subordinating all departmental Ministers to him and by holding them responsible only for their respective departments. At the same time, there appeared the additional purpose of making the administrative machinery adaptable to the Constitution under contemplation.[8] If these were the motives for adopting the cabinet system, why is it that the power of the Minister President, head of the Cabinet, is so much curtained? If he is responsible, and it is his official duty to see that laws are faithfully executed, should he not have more power—especially the power of appointment and dismissal of his subordinates? As to the appointive power of the Minister President, it has been the custom ever since the creation of the cabinet system for the Minister President to advise the Emperor in the matter of nomination of ministers. So far this practice has never been violated.[9] The Emperor has always accepted the advice of the in-coming Minister President in the matter of appointments.

However, we must remember in this connection that his power of selection of Ministers for the Army and the Navy is restricted to a small group of men who are generals and lieutenant-generals in the Army and admirals and vice-admirals in the Navy. The Imperial Ordinance of 1894, promulgated while the Yamagata Cabinet was in power, makes it impossible for any civilian to take the army or the navy portfolio in the Cabinet.[10] Under this system, it has

[8] *Japan Weekly Mail*, April 3, 1896; Prince Sanjo's Memorial to the Emperor, December, 1885, on organization of the Respective Departments.

[9] Ex-Minister Ozaki, in conversation with the writer, April 17, 1919, New York, N. Y.

[10] Professor Uyehara—*Nippon Minken Hattatsu Shi* (*Development of Political Right of the People*), p. 408. It is said that the indifferent attitude by the House toward the Bill when presented before the House was due to the fact that hitherto the posts of Ministers of Army and Navy were always filled by military officers. The House did not at that time think its apathy would bring about such an important result.

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been possible, to a large extent, for the Supreme Military Council to control the policy of the Cabinet. An example may serve to make this matter clear. In December, 1912, when the second Saionji Cabinet was in power, the Premier and his associates were forced to resign in spite of the fact that they enjoyed the support of the majority of the members of the Lower House of the Diet. The cause of the downfall of the ministry was the defection from its ranks of the Minister of the Army, General Uyehara, whose resignation came about in consequence of the refusal of the Cabinet to adopt as part of its legislative program for the year an army measure providing for the creation of two new divisions. Uyehara exercised his constitutional right to resign, but the Supreme Military Council made the ministry pay the penalty by refusing to detail a qualified officer to take his place, which made it impossible to fill the vacancy in the Cabinet and thus forced the Minister President and his colleagues to resign.

Another example may serve to show how impossible it is for the Minister President to resist the military branch of government. When the great naval and military expansion was decided upon after the Russo-Japanese war, the plan had been drafted and the approval of the Emperor had been obtained before the Prime Mininster was informed. "Thus," says Mr. Ozaki, "Minister President as he was in name, he had no part whatever in the decision on schemes of national defence which are intimately related to the most important affairs of State, diplomacy and finance; but had the honor of being notified of the result only after the question had been finally disposed of by the Emperor."[11] Thus, although he is legally the head of the ministers and has general control over the various branches of the administration,[12] he is entirely helpless in such a situation; to reject any plan means that he is acting against the will of the Emperor, which has already been expressed.

[11] *Constitutional Loyalty*, Ozaki, pp. 76–77.

[12] See Imperial Notification No. 135 issued in 1889 on function of the Cabinet, Article II.

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The significance of this practice will be appreciated when it is recalled that the essence of cabinet government is unanimity of its members. If the Cabinet embraces any malcontent, it is impossible to conduct an efficient administration. An English writer says of this:

> It is absolutely necessary that there should be in the conduct of affairs in this country, an avowed and real minister, possessing the chief weight, in the Council and the principal place in the confidence of the King. There can be no rivalry or division of power. That power must rest in the person generally called the First Minister, . . . If it should unfortunately come to such a radical difference of opinion that no spirit of conciliation or concession can reconcile, the sentiment of the minister must be allowed and understood to prevail, leaving the other members of the administration to act as they may conceive themselves consciously called upon to act under such circumstances.[13]

In Japan, as long as the present system prevails, it is impossible even for the recognized leader of a party to construct an efficient cabinet for prosecuting a uniform course of action. The popular elements in Japan welcomed the Cabinet of Hara in 1918, because Hara was the first commoner who ever formed a cabinet. His success was considered a sure victory for parliamentary government. It was hailed as government by party, but how can it be called a government by party in a true sense, when it contains two hostile members who served under the former Cabinet?

This inquiry into the place of the Army and Navy Ministers in the Japanese system will lead the reader to ask: "If the Cabinet is not the real working executive organ in Japan, where is the real seat of executive power?" To answer this question, the nature of the *Genro*, or "invisible government" of Elder Statesmen in Japan, must be taken into account.

The institution which retards the democratic development of constitutional government in Japan more than anything else is the *Genro*. At present it is more powerful than any other institution, except, of course, the Emperor. It is an entirely

[13] Stanhope, *Life of Pitt*, Vol. IV, p. 24.

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extra-constitutional body. The Elder Statesmen have no official standing in the Japanese Constitution. Therefore, if they participate in the determination of national policies, it is not only a violation of the spirit of the Constitution, but also an encroachment upon the rights of the Privy Council, which has a constitutional standing as the highest deliberative body of the Emperor's official family. Nevertheless, the Elder Statesmen have, by custom, acquired an enormous power—power to advise and even power to form and overthrow cabinets. It has been the custom to call them into deliberation at every meeting of importance. They have been by custom in a position to nominate the organizer of the Cabinet, namely, the Minister President. Generally speaking, no change of Cabinet is effected nor any treaty concluded without their advice.

In nominating the Prime Minister, the Elder Statesmen are guided by the principle of clan government (*Hambatsu Seifu*), that is, they usually recommend to the Emperor as an organizer of the Cabinet a man who is affiliated with one of the two great western clans, namely, Satsuma and Choshu. They recommend outsiders—party politicians—to organize the Cabinet whenever they think it necessary as, for instance, the recommendation of Okuma in 1914 and of Hara in 1918.

The abolition of the rule of the *Genro* presents one of the most vital problems in the development of constitutional government. Such a task is not easy. The frequent impeachment (Dangai)[14] of super-party cabinets, an increase in the party strength, and political education of the people may decrease the power of the *Genro*, but these are not enough to destroy the foundations of their strength. At present the most

[14] The word "Dangai" does not mean impeachment as it is used in America. However the word is often translated "impeachment," because its use is regarded in Japan as deadly as impeachment. The word really means "right of address" (Dangai Josoan—a proposed impeachment to the throne) by the Lower House to the Emperor censuring specific acts of the government. Dangai must be supported by absolute majority of the members in the Lower House. "Dangai" or impeachment is also used for the resolution of the Lower House censuring some specific acts of the government. But it is the *Dangai Josoan* that is the most effective.

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influential power they exercise is the right of recommending the Prime Minister. If they lose this right, their power will naturally disappear. To eliminate the *Genro*, therefore, it is necessary to destroy the source of their power. This source is an Imperial Ordinance of 1894 in reference to the appointment of army and navy officers to portfolios in the Cabinet.[15] And at present, from the affiliation of the clans with the military and bureaucratic circles, the real power derived from this Ordinance is in the hands of the Elder Statesmen. It is by controlling these army and navy officers that they have the power to set up or overthrow cabinets. Therefore it is impossible to deprive the Elder Statesmen of the right, acquired by custom, of recommending an organizer of the Cabinet unless the Imperial Ordinance in question is repealed.

Such being the true state of affairs, the actual depository of the real executive power, of which the sovereign is the symbol, is an extra-constitutional council, the *Genro*. The members of this organization, by their immense prestige as the founders of modern Japan, virtually exercise sovereign powers in all emergencies of domestic and foreign policies. The Cabinet Ministers are nothing but their secretaries charged with performing the routine of administration under their guidance and supervision.

Besides the *Genro* there is another political institution which overshadows the power of the Cabinet—the Privy Council. The Privy Council is a deliberative body only so far as the letter of the Constitution is concerned. It is neither a legislative nor an executive body at all. Article VIII of the Imperial Ordinance of April, 1888, says: "Though the Privy Council is the Emperor's highest resort of council, it shall not interfere with the Executive." Therefore, anything that the Council does in the nature of executive, legislative, and administrative work is unconstitutional.

According to the Imperial Ordinance of 1890, which minutely describes its functions, the Council has power to hold its meet-

[15] See page 5 and 6 in reference to the power of Prime Minister.

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ings to deliberate and to express its opinion in reference to any important matters, such as treaty making and the proclamation of the law of siege and all laws supplementary to the Constitution and Ordinances. It is largely due to this provision that the Privy Council can exercise a dominant power over the Cabinet. Although the function of the Council is merely deliberative, so far as the letter of the Constitution is concerned, the Council can practically reject any measure of the Cabinet, since it is the highest advisory council of the Emperor. In fact, therefore, the deliberation of the Council has more weight with the Emperor than that of the Cabinet. In fact, no important legislative measure can be promulgated without the consent of the Privy Council.[16] When the Cabinet wishes to introduce any important measure in the Diet, it is customary for it first to send the bill to the Council which will presumably sanction its introduction. Without securing the approval of the Council in advance, it is useless for the Cabinet to introduce a bill, for if a bill approved by the Diet is later rejected by the Council, the Cabinet will be humiliated, and its efforts, as well as those of the Diet, will become naught. The Cabinet Ministers well understand that the actual operation of the government can not be carried on smoothly without the co-operation as well as the sanction of the Council.

The Privy Council in Japan is the equivalent of the Supreme Court of the United States so far as the sole power of interpretation of the constitution is concerned. All questions of Constitutional interpretation are presented by the government to the Council, since there is no other body which has any legal power in the matter. The Cabinet is the only official channel of communication with the Council. The proceedings and deliberations of the Council are secret, and no outside body is permitted to participate in them. Of course, its decision is subject to the will of the Emperor.

The significance of this power of constitutional interpretation in the hands of the Council for the future of democracy

[16] There are at present thirty-nine members, of whom ten are Cabinet Ministers.

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of Japan can be easily seen, especially if the Diet becomes more and more dominant. The popular representatives have no power to participate in the decision of constitutional questions. These are handled by an irresponsible body, which is placed far beyond the reach of the electorate. So far there has been no difficulty in the matter,[17] but with the advance of democracy the Constitution must be interpretated to suit the progress of the day. Especially is this true of the Japanese Constitution, in which only fundamental rules of the State are embodied in broad and general language.

The Council also has the power to make and to revoke treaties in conjunction with the Cabinet. In this important function, too, the popularly elected chamber[18] has no power to participate. The Law (*Koshikirei*) provides: "All laws and ordinances which have been approved by the Privy Council must have its signature," [19] in order that its judgment may have more weight in the decisions of the Cabinet. In like manner, laws and ordinances which have been approved by the Privy Council cannot be amended or changed without its consent.[20] This is an enormous power of the Privy Council, since the Cabinet must get the approval of that body for any important bill or law before presenting the same to the Diet.

Why is such enormous power given to the Privy Council, the members of which are not responsible? They (excepting Cabinet Ministers who are members of the Council) are in no fear of impeachment by the House, since they have no official relation with the House, but only with the Cabinet.[21] Members of the Council are not subject to the interpellation

[17] In 1892 in a hard-fought contest with the House of Representatives, the Upper House won for itself an imperial interpretation (in fact a Privy Council decision) to the effect that it had the right to reinsert in the Budget items expunged by the House of Representatives, *i. e.*, that it had equal rights of amendment with the latter. Clement *Constitution Imperialism in Japan*, p. 21.

[18] See Imperial Ordinance No. 22, 1888.

[19] G. Soyeshima, Present and Future of Constitutional Government, *Nippon Oyobi Nippon*, January issue, p. 31.

[20] *Ibid.*

[21] Regulations of the Business of the Privy Council (Imperial Ordinance, Nov. 22, 1888), Article III.

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of the Diet as are the Cabinet Ministers. It would seem that the framers of the Constitution thought that dangerous democratic movements could be checked only by creating a Privy Council far beyond the reach of the electorate. They thought that the Cabinet Ministers might sometimes represent a popular will contrary to their interests, and that they might influence even the Upper House by patronage and by some other means. Therefore, the framers may have felt the necessity of finding some institution which would be far beyond the reach of the Cabinet, the Houses and the electorate.

We have seen that the Privy Council is higher than the Cabinet in its relation to the Emperor. Then what will be the attitude of the Cabinet in case of conflict with the Council? In case of a conflict with the Lower House, the Cabinet can dissolve the House; in case of a conflict with the Upper House, the Cabinet can advise the Emperor to swamp the House with the appointment of new members if necessary; but in a conflict with the Privy Council, the Cabinet can neither dissolve nor swamp that body.

Up to this day there has been no serious conflict between the Cabinet and the Privy Council, as both have been and still are occupied by men of the same mode of thinking. For many years past, the Cabinet, with the approval of the Council issued many Imperial Ordinances which have the same effect as law.[22] This power of the Cabinet to issue an Imperial Ordinance in conjunction with the Privy Council is one of the most powerful weapons of the bureaucrats against democracy. Thus, when the Cabinet is on friendly terms with the Privy Council, the Cabinet can easily make laws independently of the Diet by means of Imperial Ordinances.

However, with the development of the parliamentary system, the friendly relation between the Cabinet and the Council will not long continue. There is every indication that the Privy Council will not harmonize with the policy of the

[22] For instance, Imperial Ordinance of 1894 and Imperial Ordinance No. 205 in references to civil liberties.

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Cabinet, especially when the Cabinet is formed by the support of a party. "If the Privy Council is," as Ito hopes, "competent to lend assistance to the wisdom of the Emperor, to be impartial, with no leaning to this or that body, and to solve all difficult problems, it will certainly prove an important piece of constitutional mechanism."[23] But, if not, it will be the worst constitutional barrier against the development of democracy.

The recent attitude of the Council toward the liberal ministry has aroused apprehension among our liberal statesmen. It has greatly usurped its constitutional power by interfering with the legislative and administrative functions of the Cabinet. For example, during the Okuma administration, the Privy Council presented to the Cabinet various objections to the enforcement of a factory law passed in 1911. As a result this factory law was not promulgated until 1916—five years after it was passed by the Diet.

No doubt with the progress of democracy it must become more and more evident that a system which places this far-reaching power in the hands of a body not amenable to proper control, is a constant menace to liberty. It not only may be made to serve the purpose of defeating reform but may even accomplish the overthrow of popular rights. Unless the Privy Council entertains a more liberal view, no cabinet, even with the support of both Houses, will be able to pass any liberal legislation.

[23] *Commentaries*, p. 98.

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Chapter II

DEMOCRACY AND THE LEGISLATIVE DEPARTMENT

Coupled with the executive department in Japan, there is the Diet, the legislative organ, a bicameral legislature consisting of a House of Peers and a House of Representatives. The organization and legal powers of the Diet are provided for by the Constitution, the law of the Houses, the law of election and various other Imperial ordinances issued in 1889 and 1890.

The law concerning the House of Peers was promulgated not as ordinary law, but as an Imperial Ordinance to be amended upon the initiation of the Emperor with the consent of the House of Peers alone. While the rules of organization for the Lower House are determined by both Houses, the Lower House cannot participate in the determination of similar rules for the Peers.[1]

In 1918, the House of Peers was composed of 374 members, of whom 210 were peers, 119 Imperial nominees, and 45 representatives of the highest tax-payers.[2] Among the peers the hereditary members are the Imperial princes and the princes and marquises. The rest of the members of the peers are elected by and from the Counts, Viscounts, and Barons.

Next in number to these nobles come the Imperial nominees. They are mostly government officials or former government officials. They are nominated by the Emperor on account of erudition or meritorious services to the State on the advice of the Ministers of State, who are not responsible to the

[1] Law of the Houses, Article CXI.

[2] *Japan Year Book*, 1918, p. 637.

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people. These Imperial nominees hold office for life[3] and, being generally the ablest men in the House, exercise a dominating influence. Next in number to these nobles and Imperial nominees come the representatives of the highest tax-payers. They are elected, one member for each Fu (Municipal Prefecture) and Ken (Prefecture), by and from the tax-payers of the highest amount of direct national tax on land, industry, or trade therein, and are afterwards appointed (commissioned) by the Emperor. This group, comprising about one-eighth of the total number of the Peers and consisting, as it does, of men of wealth, is said to be the most incompetent and least important of the three groups. An ordinance also provides that the peers, hereditary or representative, shall not be outnumbered by Imperial nominees and the representatives of the highest tax-payers. Articles IV and VI of ordinance further provide that the term of all elective members shall be seven years.

An analysis of the composition of the House of Peers clearly indicates the general tendency of its political force. The control of the Upper House by the aristocracy exercising co-ordinate powers with the Lower House explains the weakness of the representative body. The Upper House on account of the aristocratic traditions of the majority of its members has little sympathy with any democratic movement. Its members invariably support the government no matter who form it so long as the government adheres to its traditional principles of bureaucracy. The members of the Peers, unlike the representatives of the Lower House, are exempt entirely from election by the people either directly or indirectly. This means that they do not feel any responsibility to the people at all. In conflict with the Lower House, the Peers can stop all legislation, however important and necessary it may be, without any consequent fear of dissolution. They can block every

[3] The House of Peers was composed as follows on December 25, 1917, on the occasion of the fortieth session: Princes of the Blood, 13; Princes, 13; Marquises, 36; Counts, 17; Viscounts, 69; Barons, 62; Imperial nominees, 119; Highest tax-payers, 45.

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governmental bill if such is against their interests. It is true that, in case of extreme necessity the Ministry can advise the Emperor to create a great many Imperial nominees and peers above the ranks of Count and thus swamp the Upper House. For there is no limitation to the number of Princes and Marquises who *ex officio* occupy seats in the House of Peers, although the Imperial Ordinance limits the total number of members of elective peers, namely, Count and Viscount and Baron, and although in the matter of the Imperial nominees, the Emperor is limited to 125. As a matter of fact this method is not so simple as a dissolution and has never been practiced, because the Upper House has almost invariably supported the Ministry in the past.

Perhaps, aside from the undemocratic extra-legal institution of the *Genro* and the bureaucratic deliberative organ of the Privy Council, the chief obstacle in the way of development of true democratic government is the existence of the House of Peers. Even today, the majority of this legislative organ distrust the organ of popular representation. They regard political parties as bodies inconsistent with the established order and the Constitution. This inherent distrust of parties by the majority of Peers accounts for the small success of the so-called party cabinets, even when they are supported by a majority of the Representatives of the people.

We have the authority of Marquis Ito for the fact that the framers of the Constitution did not like to see the organized activities of political parties in the House of Representatives. They wished the government not to be subject to "the influence of one-sided movements" and "the despotisms of the majority" of the House of Representatives.[4] They felt that the Upper House, which is composed of "the higher grade of society," would check this much-dreaded political tide in the House of Representatives and protect the government from its encroachment.[5] "If the House of Peers fulfils its functions,"

[4] Ito, *Commentaries*, p. 64.
[5] *Ibid.* 65.

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says Ito, "it will serve in a remarkable degree to preserve an equilibrium between political parties, to check the evil tendencies of irresponsible discussions in the House of Representatives, and to be an instrument for maintaining harmony between the government and the governed." [6]

If the Upper House had served the country as a stabilizer, as Ito hoped, then it would have won the respect and esteem of the people. But the parliamentary history of the last thirty years does not indicate the development of the Upper House along the line that Ito desired. Indeed Ito himself suffered at the hands of the Upper House.

In 1900, Ito, renouncing his traditional view of government, took the rôle of leader of the newly reorganized Liberal Party under the name of Seiyukai, and formed a Ministry on something resembling party lines under his premiership. No sooner had this happened than factions in the Peers united against the government, because they believed that the very existence of party government was a menace to the established order and the Constitution. They believed that their former friend, Ito, had abandoned his old conservative idea. They strongly opposed the passage of the Budget for 1901. So persistent was the determination of the Peers that Ito, after exhausting every means of persuading them to pass the Budget, was finally compelled to resort to an Imperial Rescript.

It may be interesting to note here an incident which took place in connection with this Imperial Rescript. Ito, after trying every ordinary device for inducing the Peers to pass the bill, had asked for an Imperial Rescript which was granted. After perceiving his difficulty in the Upper House, he wished to resign his premiership. The Emperor, hearing this, said: "You say that you wish to resign. You are fortunate indeed to be in a position to resign. But how about me? I can not resign like you. You must try to the best of your ability." [7]

[6] *Ibid*, pp. 65, 66.

[7] Representative Motsuzuki, Speech on the Japanese Position on the Treaty, May, 1919, before the Columbia Japanese students.

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It was said that Ito was deeply struck with admiration for the Emperor and abandoned his purpose.

Ito was not the only one who suffered at the hands of the Upper House. During the Yamamoto Cabinet, the government suffered from an amendment to its budget by the Peers. In spite of the fact that the bill was regarded as one of the most important measures, the Peers cut down the original naval appropriation of 130,000,000 yen a year by 70,000,000 yen a year.[8] Usually, unlike the House of Representatives, the Peers, when opposed to the governmental policy, amend its bill in such a way that it is impossible for the government to carry out a desired program because of lack of funds. This is the strongest weapon of the Peers, and they often use it against the government instead of the right of address in the form of impeachment (*Dangai*) as is the case in the House of Representatives.

The House of Representatives is composed of members elected by the people in accordance with the provisions of the law of election. Under the new revised election laws there are 464 members. The actual powers of the Lower House are of necessity limited by reason of the fact that it can not hold the cabinet responsible for its public policy.

Formal communication between the Diet and the Executive is regulated by the Constitution and the Law of the House. The only method of communication between the legislature and the Crown is an address, which, like any other resolution of either House, must have the support of the majority of the members present at the sitting. The Crown may communicate with the legislature at will by means of an imperial rescript addressed to either of the Houses through the medium of its President.

Communication between the Diet and the Cabinet is carried on by divers means. Either House may make representations to the Ministry concerning laws or upon any other subject. These representations, like other resolutions of the House,

[8] Uyehara, *Nippon Minken Hattatsu Shi*, p. 584.

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must, to be in due form, be supported by a majority of the members. Further, members of either House may interpellate the Ministers, and if the questions are presented in due form and are not objectionable in content, the Ministers must reply or state in writing their reasons for not doing so. On the other hand, members of the Cabinet, though they may not be members of either House, have free access to the Diet. Ministers of State or their delegates may attend the sitting of either House and all committee meetings and may speak at any time, provided the floor is not already occupied. The Cabinet may introduce projects of laws, and such bills have the right of way on "the order of the day," unless the government consents to a postponement of the debate.[9] The Cabinet may withdraw any of its bills at any stage of their progress through either House.[10]

Relative to the Emperor's co-ordinate power in the matter of legislation, the Constitution says: "The Emperor exercises the legislative power with the consent of the Imperial Diet."[11] So far as this article is concerned, it may be interpreted to mean that the Emperor is co-ordinate with the legislature in the matter of legislation. However, the framers of the Constitution unquestionably meant by this that the legislative power is ultimately under the control of the Emperor, and that the duty of the Diet is to give advice and consent. According to this theory (as well as to the present practice) the Japanese Diet is not an assembly of representatives of the people to control and supervise the government but a mere deliberative body.

This political relation in which the Emperor (in practice, his advisers) stands to his popularly elected chamber sheds light on many features of Japanese public life which seem strange to English and American observers. It explains in the first place the fact that it is considered a moral and wholly

[9] Law of Houses, Article XXVI.
[10] *Ibid*, Article XXX. Article V.
[11] Article V.

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justifiable practice for the monarch—in reality his advisers—"the government," not only to control so far as they are able, the election of the members to the representative body, but also by rewards and other forms of political pressure to influence the votes of representatives after election. These practices were actually carried on as early as the third election. In that year it was said that the government spent more than three million [12] yen to buy votes. This caused a conflict between the government officers and the people resulting in 388 persons being hurt and 25 killed.[13] In 1914, during the Okuma administration, Minister of Interior Oura was compelled to resign as a result of the discovery of his connection with bribery.[14] This political relation also explains the policy of the "government" in playing off one party or faction against another, and thus, through the block system,[15] obtaining a majority of votes in favor of action which the government desires. It explains still further the right which is freely exercised by the "government" of dissolving the elected chamber whenever other methods of obtaining its support for a government measure have failed; and, it may be said, so powerful is the official influence that may be exerted in the ensuing election, that in all cases the result has been that the newly chosen chamber was of the desired political complexion.[16] As a matter of fact, the government never failed to obtain a favorable result whenever it dissolved the House of Representatives during the last twenty years of constitutional government in Japan. It is customary for the Ministers, whenever they dissolve the chamber and order a new election,

[12] *Shin Nippon*, February issue, 1915, p. 4. An appeal to the people before the dissolution.

[13] Uyehara, *Nippon Minken Shi*, p. 254. During the seventeenth session the government also (Katsura Ministry) bribed a number of Representatives to pass through both the taxation bill and the naval bill.—Uyehara, *Mingei Hattatsu, Shi*, p. 447.

[14] 1914—In spite of his clear violation of the election law, he was not arrested.

[15] Perhaps the most outstanding example of this occurred during Premier Katsura's administration.

[16] The elections of 1914, 1917 and 1920 were landslide victories for government or pro-government parties.

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to influence the voters by means of a hint of a dissolution of the chamber as often as it is necessary unless the election turns out as they desire.

Observing this situation, Mr. Hayashi says:

It is a general opinion among our people that whenever the government dissolves the Diet and a new election is held, it always results in the victory for the government. This was shown during the administration of Okuma and again this time [Terauchi administration]. After all, it is not too much to conclude that victory of the government in the general election after dissolution is one of the peculiar phenomena of governmental supremacy.[17]

Another prominent Japanese, Professor Uyehara, commenting on the supremacy of the government, remarks:

No doubt the dissolution of the House in the seventeenth session was the direct result of the uncompromising attitude of the majority party then led by Prince Ito toward the government. In the eighteenth session the government and the Seiyukai compromised. However, the dark political struggle between them never ceased. Seeing this situation, the Emperor, by the advice of the Elder Statesman who were influenced by Premier Katsura, appointed Ito to the presidency of the Privy Council. This caused Ito to abandon the party in order to accept reluctantly the position, because the refusal would mean disobedience of an Imperial command. This fact is a most noteworthy incident in our constitutional history. It signifies that no person—even such a powerful statesman as Prince Ito (who had a large influence among the people as well as the great confidence of the Emperor, not to mention the fact that he was a leader of a majority party)—can successfully oppose the government. He was squarely defeated even with a large majority party behind him. Under the existing political system, no matter who opposes the government, no matter what principles and political views he may have, no matter who may control the House as a leader of the majority party, as long as the Cabinet stands inde-

[17] Hayashi Election, *The Taiyo*, Volume 23 (June, 1917). A dissolution enables the government to continue the administration for at least five months from the time of dissolution without the interference of the House, and to prepare during this interval to meet the possible opposition of the new House. But after the dissolution, if the Ministers see that public sentiment is very strong against the government, they usually resign. In this case pressure is usually brought to bear upon the Cabinet by the Privy Council or Elder Statesmen.

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pendent of the majority party and does not take responsibility, that is, as long as the Cabinet adheres to a policy repugnant to the will of the popular representatives, it is impossible to win ultimate success against the Cabinet. Alas! Mighty Ito had succumbed to the government led by Katsura.[18]

Thus we see how helpless the popularly elected chamber is against the government. The only weapon the chamber has is the right of address to the Emperor which might be called a sort of impeachment. Under the constitutional provision either House of the Imperial Diet can present an address directly to the Emperor,[19] thus cutting off the monopoly of communication of the Cabinet Ministers to the Emperor. Owing partly to the peculiar political psychology of the people, partly to the fact that the government not only is not responsible but also always screens itself behind the crown whenever popular attack is acute, the right of address by the Diet, especially by the popularly elected chamber, has become very important in the history of Japan's political development.

The right of address to the Emperor is largely traditional. In the minds of the people the chief duty of the advisers of the Emperor, namely, the "government," is to maintain and to promote the happiness and prosperity of his subjects. The Constitution of Prince Shotoku provides: "The officers of the government are also the subjects of the prince [Emperor], and there is no reason why they should dare to lay undue burden upon others—the people, who are the subjects of the same prince [Emperor].[20]" When intelligent men take service, the applause of the people follows; but when the unintelligent are in office, calamities ensue. If wise officers are chosen, the matters of the State are well managed, the community is free from danger, and prosperity prevails.[21] To

[18] Uyehara, *Nippon Minken Hattatsu Shi*, p. 458. (This may not be true if the press and public opinion are behind the party.)

[19] Imperial Ordinance concerning the House of Representatives, Article LI.

[20] *The Constitution of Prince Shotoku*, Chapter II; *Dai Nihonshi*, Vol. XII. (This constitution was written about Seventh Century, B. C.)

[21] *The Constitution of Prince Shotoku*, Chapter VII.

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allow the Emperor to be cognizant of the dissatisfaction and suffering of his beloved subjects is considered disloyal on the part of the Ministers. Hence, whenever the Diet is dissatisfied with the policy of the administration, it presents an address to the Emperor, pointing out certain defects and unsatisfactory conditions in the government, and making the Cabinet Ministers appear to the people as thwarting the will of the Emperor. Unless they are able to refute the charges made against them, the Ministers will suffer public discredit. Moreover, since they are considered as Ministers or advisers of the Emperor, who is always anxious to promote the happiness of his subjects, the Ministers must either prove that the action of the House is wrong or acknowledge their own defects. To do the former is to defy the House by a dissolution, and appeal to the country for its judgment or decision. To do the latter is to tender their individual or joint resignation.[22] Indeed, six dissolutions out of ten in thirty years of parliamentary history since 1890 were directly or indirectly the result of an address of the House of Representatives impeaching the Cabinet.

Although the Houses are given some powers over the matters enumerated in the Constitution these powers are limited in the sphere of their operation. The House may refuse by majority vote to approve a legislative proposition; but even in its negative sense, it is to be observed that they can not prevent the execution of any laws already enacted by refusing to approve the necessary appropriations. If these appropriations are not made by the chambers, the government—the advisers of the Emperor—are generally conceded to have the constitutional right to raise and expend what funds are necessary in order to carry out the laws already upon the statute books. Article LXVII says, "Those expenditures already fixed, based by the Constitution upon the powers appertaining to

[22] Cabinet Ministers in Japan have not collective responsibility as in England, as the writer has already said elsewhere. Therefore it is not necessary for all Ministers to resign at once as a unit. Sometimes the Minister who has been most subjected to popular criticism tenders his resignation while the rest remain in the office. This was the case during the administration of Okuma.

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the Emperor, and such expenditures as may have arisen by effect of law or that appertain to the legal obligations of the government, shall be neither rejected nor reduced by the Imperial Diet without the concurrence of the government." This means that, if the legislature will not pass the measures proposed by the executive, the latter gets on just as well without them.

The upshot of this provision is that under no conceivable circumstances can the Diet withhold the funds necessary to enable the government to exercise its functions.[23] It is true that, when the government's budget fails to pass the Diet, a certain amount of embarrassment may ensue, particularly if the government has some large-scale project to undertake. But even so, the difficulties may not be so great as might be expected, since the expenditures of the government which do not come in the list annually voted in the Budget are of very wide range. These, according to Prince Ito, include ordinary expenditures required by the organization of the different branches of the administration and by that of the Army and Navy; the salaries of all civil and military officers, and expenditures that may be required inconsequence of treaties concluded with foreign countries; the expenses of the Houses of the Diet, annual allowances and other miscellaneous allowances to the members, pensions, annuities, expenses and salaries required by the organization of offices determined by law, and other expenses of a like nature; and expenditures relative to the interest of the national debt, redemption of the same, subsidies or guarantees to companies, expenses necessitated by the civil obligation of the government, and compensations of all kinds, and the like.[24] From this list it is apparent that a large part of the expenditures of the state is permanently provided for by the Constitution. Moreover, the government has means of raising the revenue

[23] Article LXXI. When the Diet fails to vote on the Budget, the Government shall carry out the Budget of the preceding year.

[24] *Commentaries*, pp. 128–129.

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by the imposition of administrative fees, or other charges having the nature of compensation, such as railway fares, warehouse charges, school fees, and the like, which are fixed by administrative ordinance.[25] These fees which escape the direct control of the Diet, according to Professor Uyehara, amounted to about a third of the total ordinary revenue during the year 1905–1916.[26] Thus the Japanese theory of the Budget is based upon the doctrine that, inasmuch as only the will of the Emperor is competent to create law, the Diet cannot, by its action, defeat the operation of law.

Though the members of the Diet have legal power to introduce bills, this has not been exercised to any great extent. A majority of its members are not well trained in drawing up any bill which requires particularly technical knowledge. In this respect the experienced government officials have far superior qualifications. The handicaps imposed by the law and custom of the Constitution also discourage the members of the Houses from attempting to secure legislation by private bills. At present no important government bill is introduced without first being submitted to the Privy Council. In case of a private bill, the members of the Diet can not submit it to the Council, because they have no connection with that body. Under such circumstances the members of the Diet are loath to trouble themselves by introducing a bill which is very likely not to receive the approval of the Privy Council. Moreover, the Emperor has the veto power which he can exercise freely if he wishes to. Such laws as receive Imperial sanction must, according to the Constitution, be promulgated before the next session of the Diet. However, this does not mean that laws must be enforced immediately after entry in the statute books, because the enforcement of any law involves expense. And until an item covering such an expenditure has been put into the Budget by the government and approved by the Diet, the laws will be ineffective. Thus,

[25] Article LII, *Commentaries*, p. 114.
[26] Dr. Uyehara, *Political Development of Japan*, p. 144.

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the Factory Law of 1910 was not enforced until 1916.[27] In the same way the Foreigner's Land Ownership Act which passed several years ago has still no effect as a law.[28]

The shortness of the session of the Diet and the power of the government reduce still further the actual power of the houses. The government can minimize criticism and inquiries by suspending the sittings of the Representatives of the people. The length of the annual session as fixed by the constitutional provision [29] is three months, but in the law of the Houses it is provided that at any time, and as often as it wishes, the Cabinet may prorogue either house for a period not exceeding fifteen days.[30] Such a suspension may be used by the government as a warning that continued recalcitrancy will result in a dissolution—dissolution which involves an enormous expense to the Representatives of the people.

Further curtailment of the power of the Houses is brought about by cutting short the length of the annual session. The Houses meet the latter part of December. In practice the real work begins after taking about a month's recess for the New Year's holiday, that is, sometime about the 25th of January. Moreover, by the rules of procedure of the Lower House a further diminution of the actual time for debate or investigation is effected.

Plenary sittings of the House take place on alternate days.[31] Committee meetings[32] occupy the rest of the time. The actual time occupied by the sittings of the Lower House since its foundation in 1890 was, until the twenty-sixth session, eighty-three days and twenty-seven hours.[33] Full sittings of the House do not exceed thirty days.

Such is the operation of the legislative organs in Japan. To democratize the legislative system the Constitution must be

[27] Dr. I. Takami, Meaning of National Census, *Chuo Koron*, p. 2, March, 1918.
[28] Tokyo, *Nichi Nichi*, March, 1919, p. 2.
[29] Article XLII.
[30] Law of Houses, Article XXXIII.
[31] Japan Year Book, 1918, p. 639.
[32] *Ibid*, 667. (Year 1915.)
[33] *Ibid*, 1918, p. 639.

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either amended or interpreted in a new way. So long as this is not done, the Diet can not obtain substantial powers in legislation, and can not enforce responsibility upon the Cabinet. It is hardly possible that any extensive change can occur unless the franchise is greatly extended.

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Chapter III

DEMOCRACY AND THE JAPANESE ELECTION LAW BEFORE 1919

The original Election Law of Japan was enacted in 1889, the year of the promulgation of the Constitution. The Constitution, which is extremely difficult to amend, is silent as to the provision for suffrage. Whether this was due to the wisdom of the framers of the Constitution or was by mere accident of imitation, the Election Law of Japan is fortunately amendable by the ordinary legislative process. "It is not proper," says Ito, one of the constitutional framers, "that the Constitution should provide for such detailed matters as laws of election which are subject to change whenever necessity requires them." [1]

The Law of 1889 was undemocratic in that high property qualifications were placed both upon the electorate and the candidates. The principle laid down in the law was that only those who showed "sufficient evidence of attachment to the community were entitled to suffrage." However, this evidence consisted in the possession of a certain amount of property, preferably real estate. In discussing the subject of suffrage, Dr. Yegi says in his book *Ideal Constitutionalism* that the political philosophy of universal suffrage is a mere fallacy. He considers that those who possess no property should not be active participants in political life.[2] Dr. Uyesugi entertains a similar opinion. "Generally speaking," he says, "only those who have a definite amount of property have a definite opinion, and they alone have any chance to equip

[1] Ito, *Constitutional Law and the Law of the Imperial House of Japan*, p. 32.

[2] See his last page as well as his article regarding election of members of the House. He says on the last page, referring to the common people, "Are you still dreaming of human rights and liberty? If you live, you should be satisfied with that. As long as you have no actual power, your complaints have no effect upon us. You ought not to try to disturb the feeling of the bureaucrats. You should pray for us. It is the best policy to be in peace under the protection of the bureaucrats."

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themselves with education and common sense. If there is no restriction in the way of a qualification for voters, those who have no property and no education, as they far exceed in number, will make our national assembly far from ideal."[3]

In accordance with this philosophy the accepted idea of those who drafted this law of 1889 was that only the property-holding class should enjoy political rights. Thus the statute provided that "the elector must have been paying, in the Fu or Ken, for not less than one year previous to the date of the making out of the electoral list, direct national taxes to the amount of not less than fifteen yen, and must be still paying the same. But in the case of income tax, he must have been paying for not less than three full years previous to the same date, and must be still paying."[4]

The result of this provision was that the voting population was only 450,365.[5] The population of Japan in 1889 was 39,382,200; there was, therefore, about one voter in every 87.7 persons.[6]

The same principle was applied in the requirement of property qualifications for the legislative candidates. It was provided that "those alone shall be eligible who are male Japanese subjects of not less than thirty years of age, and who in the Fu or Ken in which they desire to be elected, have been paying direct national taxes to an amount not less than fifteen yen one year previous to the date of the making out of the electoral list, and who are still paying that amount of direct national taxes."[7] The result of this provision was that participation in political life was limited to the most prosperous part of the population.

Another feature of the original law was the requirement of publicity in voting. Article XXXVIII provided "every

[3] Professor Uyesugi, *Imperial Constitution*, 7th edition, p. 404.

[4] Article VIII. Election Law of 1889.

[5] Professor Kudo, *Constitutional History*, p. 343 (statistics of Meiji 21).

[6] Professor Kudo, *Kenpo Hattatsu Shi* (History of Constitutional Development), p. 344.

[7] Article VIII.

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voter shall, at the voting place, inscribe upon the voting paper, the name of the person he votes for, then his own name and residence, and shall put a stamp upon it." This had to be done in the presence of the election officers. This open voting facilitated bribery since the briber could ascertain afterwards how any man voted. Another result was that persons economically connected, or in friendly association, with others were often coerced into voting as those others bade them.

Under the first election law, the system of small electoral districts was adopted, and each Fu or Ken (administrative district) was divided into several election districts, each of which constituted a single-member constituency, with the exception of some large districts which, because incapable of further division on account of their topography, had two seats alloted with the system of *scrutin de liste*. There were 257 districts in all, and the number of representatives to be elected out of those districts was 300.

It seems that the framers of the Election Law were not fully aware of the effect of the Law upon the real operation of the Constitution. They constructed election districts based on a principle of administrative convenience rather than on any principle of a political nature, without seriously considering the distribution of voters having the property qualification. They simply allotted to each district one or two representatives at the rate of one representative to every 120,000 people.[8] To those districts which had a population of between 100,000 and 200,000 was assigned one seat; to those which had a population of between 200,000 and 300,000 were alloted two seats.[9] But the defect in this division as a result of the property qualification was that the population was by no means proportionate to the number of voters.

[8] Professor Kudo, *History of Constitutional Development*, Vol. I, p. 342.

[9] Hayashida, Senkyo Kaise Iken, *Kokuminno Tomo*, 1892, No. 198, Shimane-ken, 6th electoral district had only 52 voters; Kagoshima-ken, 7th district, 53; Nagasaki-ken, 6th district, 55; Fukushima-ken, 5th district, 4,295; Shiga-ken, 2nd district, 4,379; Mie-ken, 3rd district, 4,568.

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Certain electoral districts were able to elect one representative with 52 or 53 votes, while other one member constituencies had to elect their respective representatives with more than 4,300 votes.[10] Owing to this disproportionate distribution of votes in election districts it often happened that a minority of the voters, instead of a majority, in certain Fus or Kens obtain the majority of the members returned; and, on the other hand, a party with a majority of the votes at the polls sometimes secured only a very small minority of the representatives. For instance, in the first General Election in the Prefecture of Yehime, the Liberals had five seats with 3,260 votes, while the Progressives secured only two seats with 3,540 votes.[11] In the fourth General Election, the ultra-Conservatives (Kokumin Kiokwai) in the Prefecture of Fukuoka succeeded in securing five seats with 7,442 votes, while the Liberals (Jiyu-to) in the same prefecture secured only four with 10,451 votes.[12]

The following table gives a general idea of election results under the original system:[13]

ELECTION OF MARCH, 1898

	Number of Votes Cast	*Number of Representatives*	*Number of Votes per Representative*
Liberal Party	101,087	87	1,162
Progressive Party	86,712	67	1,294
People's Party	20,695	20	1,035
Seiyukai	3,815	7	545
New Liberal Party	4,375	3	1,459
East-North Union Club	2,353	2	1,177
Aitsu Doshikai	872	2	437
Tsukuzen Kyokai	3,291	1	3,291
Kokuken-to	1,330	1	1,330
Mushozuku, Unattached	112,881	110	1,026

[10] Hayashida, Senkyo Kaise Iken, *Kokuminno Tomo*, 1892, No. 198.

[11] Senkyo Kaisei, *Kokumin Shinbum*, July 8, 1899; Hayashida, Senkyo Ho Shakugi, Appendix, p. 33; Uyehara, *Political Development of Japan*, p. 171.

[12] Hayashida, Senkyo Ho Shakugi, Appendix, p. 33.

[13] Nippon Teikoku Dai, No. 17 Tokei Nenkwan Meiji 31, p. 1,078.

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	Election of August, 1898		
Constitutional	264,267	196	1,348
Progressive	12,386	8	1,548
Seiyukai	3,501	7	500
People's Party	8,664	7	1,238
Kokuken-to	7,119	6	1,187
Liberal	3,469	2	1,735
Party affiliation uncertain	94,732	68	1,393
No party	6,463	6	1,077

Another characteristic of the original law was the disproportionate representation of different classes of people in the House of Representatives, owing to the property qualification imposed upon the candidates. At the time when the first General Election was held, land taxes were the main source of revenue, amounting to about two-thirds of the direct national taxes. It is interesting to note here that in 1890, the year in which the first General Election was held, the tax-paying capacity of representatives ranged from 15 yen to 2,230 yen. The average was 125 yen for each member.[14] As a result of this property qualification, the great majority of both voters and candidates were of the agrarian class. Moreover, as municipalities had no separate independent electoral districts except the large cities of Tokyo, Osaka, and Kyoto, the rural voters and their candidates had a further advantage. The result was that a majority of the representatives in the House were those representing the agrarian class. According to Mr. Hayashida, there were only seventeen out of the three hundred members of the House, who really represented the interest of the urban population.[15] The following figures [16] give a general idea of how the rural and the urban interests were represented.

[14] Professor Kudo, *History of Constitutional Development*, p. 344.
[15] Hayashida, *Senkio Shakugi*, Appendix, p. 163; Uyehara, p. 172.
[16] Quoted directly from *Kokumin Nenkwan* Taisei Gonene, pp. 112–113.

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UNDER THE ORIGINAL LAW

Sessions	*1*	*2*	*3*	*4*	*5*	*6*
Manufacture	2	—	—	1	1	2
Fishing	—	1	—	—	—	—
Farmers	129	144	137	155	128	134
Commercial	19	25	24	29	32	24
Mining	1	1	1	2	4	3
Liquor	—	2	1	—	—	—
Landowners	—	—	—	—	15	11
Physicians and pharmacists	3	3	3	1	4	3
Bankers	4	3	4	5	4	6
Company officials	7	7	9	6	9	13
Newspaper reporters and magazine writers	8	12	10	12	7	4
Teachers	—	—	—	—	1	1
Lawyers	20	22	28	21	22	24
Public officials	12	6	2	6	2	17
Authors	1	2	1	—	1	—
Miscellaneous	20	13	1	—	13	4
No occupation	74	59	77	62	47	50
TOTAL	300	300	300	300	300	300

UNDER THE REVISED LAW OF 1900

Sessions	*7*	*8*	*9*	*10*	*11*	*12*	*13*
Farmers	120	129	129	105	80	81	79
Commercial	33	35	39	33	16	32	19
Manufacture	2	2	—	—	3	8	8
Fishing	—	1	3	5	4	5	6
Mining	7	7	3	6	10	6	9
Liquor	7	5	5	1	5	—	—
Landowners	—	—	—	—	—	—	—
Physicians and pharmacists	10	9	3	7	6	4	15
Bankers	19	16	12	7	15	14	8
Company officials	10	13	18	20	57	51	53
Newspaper reporters and magazine writers	9	8	13	17	22	51	28
Teachers	4	3	3	3	3	5	6
Lawyers	31	54	59	64	61	54	56
Public officials	10	6	5	8	12	8	1
Authors	2	3	5	1	—	—	—
Miscellaneous	14	13	8	14	11	11	16
No occupation	78	73	74	88	76	73	73
TOTAL	376	376	379	379	381	381	381 [17]

[17] Quoted directly from *Kokumin Nenkwan*, pp. 137–138, 1919.

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From the foregoing table it can easily be seen that even after thirty years, although the population of cities has been increasing by leaps and bounds, the rural interests are still protected by a large majority of so-called country gentlemen. Such being the case, it is not strange that there has been no democratic social legislation enacted in the interest of the large majority of urban working men and women.

It was evident from the very beginning that the Law of 1889 was not satisfactory. Its defects became more pronounced at each successive election. There were constant movements among the liberal politicians to amend the legislation. It was not, however, until the year 1895 that an electoral reform bill was introduced by private members into the House of Representatives. The bill proposed to extend the franchise by lowering the property qualification of both electors and candidates from fifteen yen of direct national taxes to five yen, and in the case of the income tax to three yen, and also by reducing the age qualification from twenty-five to twenty for the voter, and from thirty to twenty-five for the candidate. If the bill had passed, the number of voters would have been quadrupled. The bill, however, was opposed by the government, and, although it passed the Lower House of the legislature by a large majority, it was rejected by the Upper House. Three years later another electoral reform bill was introduced into the House of Representatives by the government under the premiership of Ito, notwithstanding the fact that it was his former cabinet that opposed the reform bill of 1895. This introduction by the same premier who opposed the former reform act was due to the fact that Ito wished to mitigate the political antagonism toward the government.

The bill proposed a more radical reform of the election law than did that of 1895. The principles involved were: (1) the extension of the franchise by reducing the property qualifications of electors; (2) the creation of independent electoral districts for municipalities; (3) an increase in the number of representatives from 300 to 472; (4) the abolition of the

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property and residential qualifications of the candidates; (5) the adoption of large electoral districts combined with the principle of a single non-transferable vote.[18] Had this bill become law it would have increased the number of voters from 450,465 to 2,000,000.[19] Though it was passed by the Lower House, it did not go to the other House because the House was dissolved on account of the rejection of a most important government bill for increasing the land tax.

In 1899, a bill which was not substantially different from Ito's, was brought into the House of Representatives by the Yamagata Cabinet. The bill, after prolonged discussion, was passed by the Lower House, with certain amendments, the most important of which concerned the property qualification of the elector. The bill was modified in such a way as to increase the amount of direct national taxes other than the land tax from three yen to five, and to reduce the number of seats allotted to municipal districts from ninety-eight to seventy-three. As we have already seen, the great majority of the House was representative of rural interests. Consequently it was but natural for it to oppose any scheme which would increase the political strength of the urban population.

The bill came to a deadlock in the Upper House, and after prolonged debate it was restored to its original state.[20] Thereupon committees were chosen from both Houses to settle the matter, but without reaching a compromise the conference broke up, and the bill was laid on the table *sine die.*

In the following session of the House, the bill was again introduced by the same cabinet, and it was passed by both Houses with an important amendment by the Upper House. The property qualification of the elector was raised from five yen direct national taxes to ten yen.

It seems almost incomprehensible that the same House which in the previous session so persistently opposed undemocratic amendments made by the Peers to an identical bill

[18] *Senkyo Ho Kaise An*, 1898.

[19] Speech by Ito on the Electoral Reform Bill in the House of Representatives.

[20] Kudo, *Tiekoku Gikaishi*, Vol. II, pp. 120–124.

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would accept this important change which was to reduce the number of voters by about one-half. The possible reasons, Dr. Uyehara thinks, were three: first, the inability of the majority of the members of the House to realize the effect of the amendment upon the electorate; second, the indifference of the people directly benefited by the lower property qualification; third, the united support of the Liberal Party.[21] Professor Uyehara continues:

The fact that the majority of members in the House of Representatives did not realize the full force of the amendment is shown by the absence of any discussion on the vital point of the effect of a greatly extended franchise upon national politics and the working of the Constitution. It seems to me from the parliamentary bills introduced into the House, that a large number of the members did not consider the problem of the extension of the franchise any more seriously than does a simple-minded woman demanding the franchise on the principle of "no taxation without representation" considers the problem of woman suffrage. Besides, as it was chiefly the politicians, not the people, who urged an extension of the franchise, the majority in the House could decide the limit of that extension at their own capricious will, without fear of conflict with public opinion. Then, too, the Liberal Party, which had fought bitterly with the Peers over minor points in the previous session, changed its policy, and, accepting the amendment, voted for the Bill *en bloc*, while the Conservative government, which had introduced the Bill at the request of the Liberal Party, made no objection, the extension of franchise being more limited by the amendment than in the original bill. So the Bill was passed and became a law.[22]

Thus after heated discussion in three successive sessions, an electoral law was passed.

This law of 1900 adopted the system of large districts combined with the principle of a single non-transferable vote (that is, giving a voter in each district but one vote for one candidate), as well as that of secret voting, and it created independent electoral districts for municipalities having a popula-

[21] Dr. Uyehara, *Political Development of Japan*, p. 177.
[22] Dr. Uyehara, *Political Development of Japan*, p. 178.

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tion of over 30,000.[23] The country was divided into forty-seven large (rural) districts making each prefectural administration a unit; to each was allotted from two to twelve seats according to population.[24] Sixty-one urban electoral districts were created, to each of which was allotted one seat except the districts of Tokyo, Osaka, Kyoto, Nagoya, and Yokohama which were given eleven, six, three, two and two seats respectively. The number of representatives was increased from 300 to 376 [25] while the number of voters increased from 450,365 [26] to 983,193.[27] The property qualification for legislative candidates was also abolished, thus widening the opportunity for young men of ability to enter public life.

Another reform enacted by this law was the abolition of residential qualifications for the candidate. This was important because it gave the opportunity to a man of prominence to run from another district when he was likely to lose in his own district. Under the original system of residential qualification, even such a prominent man as Mr. Matsuda, who was once a Speaker of the House of Representatives and the Minister of Finance in the Saionji Cabinet, suffered several defeats because he was unable to run from another district.[28] Moreover the system of a large electoral district under the law gave to the voter independence and freedom from the rule of the party machine. It did not abolish parties; it recognized them. But it permitted new alignments and groupings of individuals within and without existing parties at the expense of the iron-bound classification imposed by the modern highly developed party machine. It gave to men of independent mind and character a better opportunity to maintain

[23] The Election Law of 1900, Article I, XXIX, XXXVI, Appendix VIII, X, or Shinhorei No. 24, May, 1918, *Supplementary Issue of Taiyo*, p. 69.

[24] One representative in rural districts for every 130,000 persons, *ibid.*

[25] This number increased by three in 1904 by having given three seats to Hokkaido and later in 1912 additional two seats were added by allowing Okinawa-Ken to choose two representatives. The number of representatives was 381 until 1920.

[26] Based on first General Election.

[27] This number is based on the first election after the promulgation of the New Electoral Law.—*Nippon-Teikoku Nenkwan* No. 36, p. 644.

[28] Humphreys, *Proportional Representation*, p. 288.

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their seats in the House, for in the election they might, in spite of opposition of parties, draw their votes from all parts within a large electoral district, and it might be said that the larger the electoral district, the greater was opportunity of independent candidates. It was largely due to this fact that Mr. Osaki and Mr. Shimada, by being independent candidates, have never lost their seats in Parliament.[29] However, at present throughout Japan, as a matter of custom, it is the unwritten law that a candidate runs from his native prefecture or town; and the rule is practically self-operating, for it is next to impossible for any candidate to run successfully in another electoral district unless he is unusually prominent. This is especially so in a country like Japan where campaign speeches have not much weight with the voters because the majority of them are not politically educated. It is but natural that the voters cast their votes, not so much with a particular political idea in mind, as from personal considerations. This is the reason that private canvassing is more effective in Japan. It appeals directly to the voters.

The result of the large electoral district system was of no mean value; it was a marked improvement over the small electoral district on the single constituency principle. Yet, in spite of this advance, the system lacked elasticity and adaptability. The single vote, like the cumulative vote and the limited vote, required exact calculations on the part of the party organization, which otherwise might fail to secure for its party the maximum number of representatives. The number of candidates to be nominated depended upon a careful calculation on the part of the political organization as to the exact number of their probable supporters; and when the nominations had been made, efforts had to be taken by the party organizations to allot their support to their candidates in such a way that not one of them was in danger of defeat. Since the nomination of too many candidates would, as with the limited vote, be disastrous, parties have been un-

[29] Taisei Gonen Kokumin Nenkwan, section *Gendai Jinbutsu*, pp. 24–107.

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willing to nominate more than the number of candidates who are absolutely necessary, in order to prevent the scattering of votes. The defeat of the Seiyukai in Tokyo in the election campaign of 1908 was attributed to the non-limitation of the number of candidates.[30] The result was that the Seyukai secured only two seats with 6,579 votes while the Daido-ha (Conservative) elected an equal number of representatives with 2,879 votes.[31]

The defeat of the Seiyukai in the general election of May 1920, in the city of Tokyo was also the result of the non-limitation of the candidates. The result of the election is as follows:

Party	*Number of Votes*	*Number of Members Elected*
Seiyukai	21,318	3
Kenseikai	19,136	6
Kokuminto	15,451	4
Mushozuku (or unclassified)	14,506	4[32]

As to the qualifications of a candidate, the revised law of 1900 remained substantially the same as the old law of 1889 except in those particulars which have already come under discussion. Among the classes still specifically excluded are the peers, clergy, army, navy, certain office-holders,[33] bankrupts, and persons convicted of treason, felony, or corrupt practice. As to the meaning of the phrase "office-holder" there has been some controversy recently among Japanese politicians. Article XVI provides that "officials other than those enumerated in the preceding article[34] may, so long as their official functions are not thereby interfered with, serve with membership in the House of Representatives, retaining their official position." The questions involved in the contro-

[30] J. H. Humphreys, *Proportional Representation*, p. 284.

[31] *Ibid*, p. 285.

[32] Tokyo, *Asahi*, p. 3, May 18, 1920.

[33] and [34] Article XV—Officials in the Imperial Household Department, Officials of Justice, Chiefs and Judges of the Administrative Litigation Court, Auditors, Revenue Officials, and Police Officials.

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versy are, first, who can determine whether serving as a member in the House is detrimental to the other position which a representative holds, and second, whether persons in the service of the commune and of the government school are excluded. These questions still await definite answers, though during recent years it seems quite settled that teachers in both government and private institutions may serve as members of the legislature, holding at the same time their original positions. Thus Dr. Ogawa has been serving as a member of the legislature and at the same time has been holding his professorship in the University of Kyoto. Mr. Horita has accepted a position as secretary to the Minister of the Treasury, retaining his seat in the House.[35] Although the statute prohibits any member of a Fu or Ken (prefecture) Assembly from combining his office with membership in the House of Representatives,[36] it seems to be conceded that the mayor of a city may do so.[37] Thus, Mr. Ozaki was at one time serving as mayor of Tokyo as well as a member of the House of Representatives. However, with these exceptions, the clause has never been clearly defined. An able, conservative political writer, Dr. Uyesugi, explains the meaning of the clause by saying that a man can hold his seat in the House of Representatives together with his official position until he is notified by his superior officer that his services are no longer needed. "In this case," he says, "one must decide whether he will resign his official position or accept membership in the House."[38] The practical operation of the Article, however, is that when a man has been chosen for membership in the House by the votes of his fellow citizens who hold the same political views as the authorities (for instance, the Cabinet) in power, he may not, in the exercise of the functions that have been assigned to him, be hindered by any superior, (for instance, the governor). This is especially

[35] In the Hara Cabinet, 1918. The information has been furnished by Mr. Sugiyama, correspondent of *Osaka Mainichi*.

[36] Article XVII, Election Law of 1900.

[37] The position of mayor is not regarded as a government position.

[38] Dr. Uyesugi, *Constitution and Constitutional Government*, 2nd edition, p. 445.

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so since in Japan most higher officials are directly appointed by the central authority in power. Of course any controversy such as this may come up before the Administrative Court, but it must be remembered that even the Administrative Court is under the influence of the political authority in power.

So far as the abolition of property as well as residential qualifications for the candidates is concerned, the revised law of 1900 was a marked advance toward democracy. However, the law did not democratize the qualifications of the voter except that it reduced the tax-paying requirement from fifteen yen of direct national taxes to ten yen.[39]

Besides the property qualification, the Election Law also provided a residential qualification. Article VIII says: "He must be a male Japanese subject and be not less than full twenty-five years of age. He must have had his permanent residence in the election district for not less than one year previous to the date of the drawing-up of the electoral list." This residence qualification seems universal at present. The mobility of population makes it necessary to have residence qualifications to prevent fraud. However, the mobility of population was very slow at the time when the Election Law was promulgated and such a requirement of long residence qualification seemed almost unnecessary.[40]

Certain persons were excluded from voting, though possessing the general qualifications above mentioned. The Law designated the following limitations: (1) Those who have been declared bankrupt and have not yet fulfilled their obligations, or those who have been declared to be in process of liquidation or to be insolvent and who have not yet definitely rehabilitated themselves; (2) those who have been declared incompetent or quasi-incompetent; (3) those who have been deprived of

[39] Article XVIII.

[40] The rate of increase of population during the ten years just prior to the promulgation of the revised law was an average of 10.03 per 1,000 persons, while the rate of increase during five years beginning with 1909 was 14.78 per 1,000.—*Nippon Teikoku No. 36 Tokei Nenkwan*, 1918, pp. 20–21.

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civil rights or whose civil rights are suspended.[41] However, in case the civil rights are suspended or withdrawn on account of political misdemeanor or crime, the right to vote revives as soon as the penalty imposed has been paid or remitted through pardon.

Perhaps one of the most peculiar features of the Japanese Electoral Law, interesting to Occidentals, although found also in the German Electoral Law, is the disqualification of the clergy.[42] The objection to permitting the clergy to participate in public affairs seemed to be founded upon the waning notion that their profession is of so sacred a character that it is a profanation of it to allow the clergy to mingle in the secular affairs of the community. This is an idea that belongs to a past age rather than to the present, although it is probably shared by many pious persons.

By the practice of most of the religious bodies in Japan, the ministers of the respective denominations are deemed to be consecrated to the work of the ministry, and to be under obligation to make that the principal business of their lives. If they engage in secular employments inconsistent with the performance of their duty as ministers of religion, they are thought to violate their professional obligations. This sentiment has its foundation both in the generally avowed professions of the clergy themselves and in the religious opinions of the people. But there is nothing in the mere exercise of the right of suffrage inconsistent with the performance of clerical duties or with professional obligations. The clergy of Japan are an enlightened, patriotic, and virtuous body of men. There is nothing, therefore, in their character or qualifications that renders them unfit for the exercise of the suffrage for the determination of the national policy and the election of members to the House. They have no exclusive privileges and are subject to the same laws that govern others; and they have the same interest in the welfare of the country. It is therefore

[41] Article XI, section 4.
[42] Article XIII.

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unjust to them and a violation of their rights to deprive them of the right of suffrage. There may be good reasons why they should not mingle in the political strife of the day, and why they should not exercise their right of voting in the elections and in the public affairs. But this is a matter that ought to be determined wholly by their own sense of propriety and duty.

The same restriction applies to men in the Army or in the Navy who are in active service, or who have been summoned in time of war or of emergency.[43] The provision covers officers, army surgeons, and the men, but it does not apply to civil officials of the military administration. The decisive factor is the conditions of active service.

It may seem singular that in a government in which militarism is so influential the question should ever arise whether men in the Army and Navy should be excluded from the privilege of voting by reason of lawful and necessary employment by the government. There is certainly nothing in these occupations that ought wholly to exclude them from the right of suffrage, for the majority of men in the active service are not serving voluntarily, but are drafted under the conscription law. As has been shown, however, a person must have an established domicile, with at least one year's residence in the place, before he can be admitted to the privilege of an elector in that place. But a person can not, in the true interpretation of that rule, by his service in the Army or Navy establish his domicile and residence in a place necessary to qualify him for the right of suffrage. Indeed, a residence for any length of time in any place by persons engaged in the performance of regular military or naval duty can scarcely be considered as a residence. Their residence depends upon the will of others having authority to direct their movements, and can not properly be considered as an act of their own, done in

[43] Article XII. According to Mr. Higuchi, if Japan adopts the system which would give the ballot to the ex-soldiers, the number of voters would increase by 1,000,000. Speech at the meeting of the advisory board of the Tokyo branch of the Kensei-kai, January 13, 1919.

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their own right. An establishment at any place, under such circumstances, can not even give one a domicile there. Troops are stationed at various posts and garrisons throughout the country. They are liable to be removed from one station to another.

In like manner the exercise of the right of suffrage is denied to the persons who, though otherwise entitled to vote, are not registered in the list of qualified voters. However, the law allows them to exercise the right of suffrage if non-registration was based on reasonable ground. It provides: "No person other than those entered in the electoral list shall be capable of voting. Should, however, any one come to the voting place on the day of election, bringing with them a writ entitling him to have his name entered on the electoral list, the voting overseer must permit him to vote." [44]

The list of voters in every village, town, and city is carefully made up and is posted for a sufficient length of time (fifteen days) for public inspection to enable every citizen who is interested to see that his name is included. Should the voter fail to scrutinize the list and should his name be erroneously omitted, whether he scrutinized it or not, he may claim that a correction be made by giving to the Guncho or to the mayor (head of the administrative district) written notice and his reason therefore, together with corroborative evidence.[45] However, in case he is barred from the exercise of the franchise through his own fault, he is only barred from that particular election; his right of suffrage is not lost, but merely suspended until the next registration.

To be elected a member of the House the candidate must secure a certain percentage of votes. In regard to this the statute provides: "The individual who has obtained a relative majority of the total number of valid ballots shall be declared the person elected." However, the number of the ballots obtained must not be less than one-fifth of the quotient obtained by dividing the total number of the electors entered in the

[44] Article XXXVIII.
[45] Article XXI.

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electoral list by the fixed number of members to be returned from the district.[46] In case the number of persons elected by this means does not come up to the required number, there will be held another election to fill up the deficiency.[47] When a person elected declines or dies previous to the issue of the notice of election, or when his election has been invalidated in consequence of his having been punished for some offence committed in connection with the election either before or after the issue of the notice of election, or when the election has been invalidated by his having been disqualified for election, the vacancy is filled from among those who obtained the next greatest number of ballots.[48]

It is true that the Revised Law of 1900 was a marked improvement over the original Electoral Law. However, it was far from satisfactory. As years passed, the same evils of inequality in the distribution of seats increased. The population of Japan has increased by leaps and bounds, and there has been a marked movement of population from the rural districts to the industrial centers. The population in the year when the Revised Laws were promulgated was 44,825,597.[49] This number increased to 54,142,441 by the end of 1914.[50] In spite of this fact, no redistribution of representation was made until 1919. Consequently gross inequality became one of the chief evils of the Electoral Laws of 1900.[51]

If the redistribution had been made every ten years in accordance with the spirit [52] of the law, the cities alone would have enjoyed 112 [53] representatives in 1918, instead of 76,[54]

[46] Article LXX.

[47] Article LXXIV.

[48] Article LXX.

[49] *Naikaku Tokei Kyoku Henbo No. 36 Tokei Nenkwan Taisei seven.*

[50] *Ibid*, p. 21.

[51] Article CXX provides that the present number of seats shall remain effective for at least ten years without regard to increase or decrease of population in each electoral district.

[52] The law does not say the seats must be redistributed every ten years. It says redistribution should take place at intervals at least ten years apart.

[53] *Tokyo Nichi Nichi*, p. 2. February 26, 1919.

[54] *Tokyo Nichi Nichi*, p. 2. February 26, 1919.

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an increase of 47.3 per cent., while the country districts would have enjoyed 352 representatives instead of 305, an increase of 15.4 per cent. The population of the six largest cities in 1900, the very year when the revision of the original Election Law took place, was 3,074,442.[55] Though this number has increased to over 5,000,000 during the last nineteen years,[56] there was no alteration in the number of seats until 1919. Thus while the six largest cities could elect only one member to every 200,000 persons, the small cities such as Marugame, Onomitsu, and Akita with a population of less than 35,000[57] were also allowed to elect one representative. Moreover, there were twelve[58] cities which could not enjoy the privilege of being independent electoral districts.

In the rural districts we find the same discrepancies though they were not so bad as in the urban districts. According to the statute, rural districts could elect one member for every 130,000 persons. But in spite of this provision each of three islands was allowed to elect one member with far less population than that provided in the statute, while Okinawa and Hokkaido with 545,900 and 1,513,317 respectively were allowed to choose only two and three members. It was said that those two states belonged to a special category and that they should not have been classed equally with other provinces. These special cases were said to have been due to mobility of population, or to a low standard of wealth. Under the terms of the law, however, representation was based on population, not on wealth.

The result was that certain districts with only 489 or 559 voters had one seat in the House, while certain other single member constituencies had more than 3,770 voters.[59] For instance, in the thirteenth general election in the district of Marugame, the Kenseikai secured one representative with

[55] *Naikaku Tokei*, year 1918, p. 30 (based on statistics of 1898).
[56] *Naikaku Tokei*, p. 20 (on Population).
[57] *Naikaku Tokei*, p. 20.
[58] This is based on 1913 statistics of *Naikaku Tokei Nenkwan*.
[59] *Ibid.*

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131 votes, while the Kokuminto obtained one seat with more than 4,390 votes in the district of Osaka; in the district of Kirosaki-shi, the Seiyukai secured one seat with less than 182 votes while in the district of Kyoto-shi, the Kokuminto secured only one vote with more than 2,480 votes.[60]

Though the people and a majority of their representatives were very indifferent to such vital problems as that of suffrage, there were always a few groups of liberal politicians who were deeply interested in the matter. These groups introduced in 1911 a most democratic electoral reform bill in the Lower House. This was a universal manhood suffrage bill, providing that "every citizen of the Empire, of male sex, who has completed his twenty-fifth year, is entitled to vote for the Members of the House in the electoral districts in which he has been domiciled for not less than one year previous to the date of the drawing-up of the electoral list." [61] The bill passed the Lower House by an overwhelming majority, only to be rejected in the House of Peers by a unanimous vote.[62] Mr. Sakai, one of the prominent Socialists in Japan, who was arrested in February, 1919, in connection with the agitation for the universal suffrage movement, gives a most interesting account of the events incident to the passage of the Bill. He says:

In the forty-fourth year of Meiji (1911), the universal suffrage bill was passed by the House of Representatives by an overwhelming majority. This you may think a phenomenal achievement; to tell the truth, the success was more of a comedy than a real achievement; but some of the representatives approved of it for their own personal credit, for they would not very much oppose a movement which has for its object the extension of the political rights of the people. Now this Bill was so radical, as you can easily imagine, that many representatives thought that it would never pass, and they voted in favor of it "just for fun," you might say. But lo! It passed with an overwhelming majority. None was more astonished at this than the Representatives themselves. It was of course quashed in

[60] *Shinbun Nenkwan*, April, 1917, pp. 158–161.

[61] *Osaka Asahi, Shinbun*, February 17, 1911. This bill was introduced by Mr. Hinata and nineteen other members, February 15, 1911.

[62] The *Jiji Shinbun, Kizokuin Gizuroku*, March 16, 1911.

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the House of Peers by a unanimous vote. But it set them thinking—members of parliament, the police, the powers that be, and the people themselves. "This is no joke," they said to themselves, and from that time on they began to behave with great circumspection. Police supervision of the men concerned in this movement became so thorough that men became shy and disassociated themselves from it. So the universal franchise endeavor had been quite forgotten until this year when it was suggested that it should be revised. We accordingly printed circulars calling on the people to co-operate with us in petitioning the House on February ninth, and held meetings or rather tried to do both, but they were failures owing to police intervention. As for me, I was asked at first to take an active part in promoting this scheme, but I declined because I was afraid that being known as a socialist I might spoil the whole thing, and confined myself to helping in a non-public way. The police, suspecting that I was in the game, called at my office on the eighth during my absence. I was not molested, but other persons were summoned by the police as reported in the press. This police intervention had of course scared those who might otherwise be interested in it from taking any part in the petition plan. Now you have the whole history of the 1918 attempt to petition on behalf of the universal franchise.[63]

It is interesting to note in connection with this Bill some debates which took place in both chambers. Mr. Arakawa said:

The government can not be conducted by theory alone, however much that theory may be right. It is necessary to give a practical rather than a theoretical reason to the people of the lower class. The property qualification in elections is by no means a class distinction; but, as it is one of the encouragements to the people to reach that stage where they can exercise their political right, it is necessary to maintain the present system. Moreover, I do not agree with the framer of this Bill that universal suffrage will lessen corruption in elections.[64]

Mr. Watanabe also protested against the passage of the Bill. "It is wrong," he said, "to think that the extension of the right of suffrage means extension of human right. If we con-

[63] T. Sakai's interview with the reporter of the *Japan Advertiser*, February 12, 1918.
[64] Parliamentary Debate, March 15, 1911—*Jiji Shimpo*, March 16, 1911.

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sider suffrage as a human right, it would be necessary for women to have it too. But the argument for universal suffrage seems not to be based on this principle. Besides, the argument that the Bill will diminish corruption as well as the expense of election has no real foundation."[65] When this Bill passed the House of Representatives, the government issued a warning to the public through the government agent, Mr. Yasuhiro, It reads:

The Bill is to change the present system of restrictive qualifications of suffrage. This principle is based on the extraordinarily dangerous idea which had been prevailing for a time in Europe, known as an inalienable human right, but such a theory has already lost its power. No person has the right of suffrage from his birth. It is clear that the right of suffrage is a privilege given by the government. Even if there are doubts on this point, they are to be found only in democratic countries, not in monarchical countries, and much less in a country like ours where the foundation of this constitutional government is entirely different from constitutional governments in Europe; such is not the system to be adopted at all. If such a system should be adopted in this country, our idea of the election would only be lowered, not raised; and it might be impossible to select the best that the country has to offer. The final result of this will be the dictation of the lower over the upper class. The government will use every means to oppose such a bill.[66]

The Bill which passed the Lower House was laid before the House of Peers where it was rejected unanimously without any debate worth mentioning. However, it is interesting to note here a statement made by Mr. Hozumi, a prominent conservative and constitutional writer, in answer to the question made by Mr. Ohoki as to the reason for the Committee's rejection of the Bill.

In reading the Parliamentary records of the Lower House, I have not found a single necessity for changing the present status of the Election Law. As the question of reform of the suffrage is only a matter of convenience, there is no particular reason why this must be permanent, and why it must not be changed. However, I do

[65] *Ibid.*

[66] *Jiji Shimpo*, March 14, 1911.

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not believe that universal suffrage will bring a result better than the present statutes. I believe the Bill has not been introduced from real necessity, but rather that it is based upon the principle of democracy. Therefore, hereafter I will see that such a bill does not even pass the gate of the House of Peers.[67]

In examining public opinion at the time when the suffrage bill was being discussed by the legislators, one may be surprised at the absence of any popular excitement. The writer, in examining many magazines as well as the press, could scarcely find any strong resentment expressed at the failure of the passage of the bill. The *Osaka Asahi* barely mentioned the announcement of the presentation of the bill before the Diet, while the *Jiji* was silent. Even when the bill passed the Lower House and was rejected by the Upper House both papers seemed entirely indifferent. They merely mentioned it in a casual way as a part of the proceedings of the legislature. No leading publication discussed the problem in its editorials. Four or five years had to pass before the people or the press really began to understand what the extension of suffrage means in the development of constitutional government.

[67] Parliamentary records in the House of Peers, March 15, 1911, in *Jiji Shimpo*, March 16, 1911.

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Chapter IV

DEMOCRATIC MOVEMENT FOR THE EXTENSION OF THE SUFFRAGE

During the world war a general movement for the extension of suffrage was slowly taking place. Thus, early in 1918 electoral reform bills were introduced by each of the three leading parties. The features of these bills were the extension of the franchise by lowering the property qualification of the electors from ten yen of direct national taxes to five yen or from ten yen to two yen,[1] readjustment of electoral districts; bestowal of the right of suffrage to those who had certain educational qualifications. Besides these the government also laid before the house a bill which would increase the number of representatives from 381 to 438. The Seiyukai insisted upon the adoption of the principle of election by small districts while the Constitutional party (Kenseikai) and the People's party (Kokuminto) tried to keep alive the then existing system of large electoral districts. In the bill granting the right of suffrage to those with certain educational standing, both the People's and Constitutional parties substantially agreed to give the vote to those who had the following educational qualification: (1) Graduates from high schools, normal schools, or from schools higher than these; (2) graduates from those institutions where politics, economics, and finance are taught with permission from the Minister of Education.[2]

The problem of increasing the number of representatives was also considered by each party. The suggestion of the Seiyukai in this matter was to increase the number from 381

[1] Shin Horei, Taiyo, Zohan, May 20, 1919, p. 70—History of Imperial Diet. The Kokuminto differed from the Kenseikai and Seiyukai in that it insisted upon lowering the property qualification to three yen.

[2] *Shin Horei.* The Kenseikai differed from Kokuminto as to the educational qualification in that it provided, besides these educational qualifications, a clause reading: "Those graduated must be able to live independently."

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to 444 [3] while the Constitutional and People's parties provided in their respective bills for increases to 439 and 461 respectively.

In addition to these the Kenseikai or the Constitutional party also introduced a bill which provided, first, for shortening the residence requirement from one year to six months, and second, for giving the right of suffrage to those who can earn their own living. It was also noteworthy that for the first time the Kenseikai tried to lessen the influences of certain corporations over the government by proposing that "officers, directors, and managers of banks or corporations, with unlimited liability, enjoying special protection from or supervision by the government and also those who undertake government work under contract, and officers, directors, and managers of juridical persons, with unlimited liability, undertaking principally government work under contract shall be ineligible for the House of Representatives." [4] The same bill also aimed to clarify the meaning of an ambiguous statute [5] as well as to define the eligibility of the legislators by a provision which reads: "No officers, unless retired, except those designated by the Imperial Ordinance, shall be eligible." [6]

Though the government and each political party introduced their own bills, these generally speaking were of two kinds. One was that of the Seiyukai, which had the smaller electoral divisions as its main feature. The other provided for larger electoral divisions with some minor changes which we have seen. Of this latter kind was the government bill. The government had already introduced an amendment in the House of Peers which would increase considerably the number of members.[7] Therefore the government bill in the House of

[3] *Shin Horei* (New Laws), May, 1918. Additional Issue of *Taiyo*, p. 69.

[4] Mr. Oyama on attitude of each party on the question of extending suffrage, p. 103. April number *Chuo Koron*.

[5] Article XIII which reads, "Those who undertake government work under contract or those who are officers or juridical persons undertaking principally government work under contract shall be ineligible."

[6] See footnote 1.

[7] It will be increased by eight. New Law increases maximum number of Counts from 17 to 20, and number of Viscount Barons from 70 to 75. *Shin Horei*, May, 1918, p. 2.

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Representatives was a kind of balance to this increase of the members in the House of Peers. It was generally agreed that the government had already secured the approval of the Privy Council for the bill and [8] also the approval of the Upper House in exchange for increasing the number of Peers. Therefore, there was every indication that the government bill would have passed through both Houses even against the opposition of the Seiyukai. All parties [9] except the Seiyukai, were united in support of the government bill. The Seiyukai were alarmed over the situation and negotiated with the government to secure the withdrawal of the government's bill on condition that the party withdraw its bill also. The party threatened the government that in the event of the government's insisting on pressing its bill before the Diet against the wish of the party, they would oppose every bill including the industrial "Mobilization Bill." [10] The government was alarmed and decided to withdraw the suffrage bill.

Commenting on this, the editor of the *Chugai Shogyo* said:

That a party government, if realized, will be just as indifferent to the interests of the people as the super-party ministry, has been proved by the majority party's interference with the passage of the suffrage bill. The government bill was rejected solely from considerations of selfish party interest. The Seiyukai preferred to sacrifice the interests of the people rather than have it pass to its own disadvantage.[11] If the Seiyukai dared to abuse its power even while it was not yet in control of the government through the regular channels, how much more inconsiderately will it act if allowed to form a ministry on the basis of its influence. A political

[8] *Shin Horei*, May, 1918, p. 69.

[9] Kokuminto, Kenseikai, Shinsekai and part of Seiwa Kurabu—200 in number.

[10] *Osaka Asaki*, March 21, 1918.

[11] All parties united to support the principles of "large electoral districts" advanced by the government against the Seiyukai who wanted the principle of "small electoral districts." Therefore, if the government insisted on its passage, it would result in the defeat of the Seiyukai. The "small electoral districts" system was the principle for which the Seiyukai fought for years in the past but was unable to get it through the Upper House. Therefore the passage of the government bill was regarded as a great defeat to the party. Moreover, if once such a bill passed, the Seiyukai would be probably unable to amend it for years to come since the Upper House seldom changes any important measure like the Election Law.

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party should represent the will of the people. A majority party is only worthy of controlling influence when it represents the interests of the majority. But the Seiyukai does not seem to be so broad. The party is concerned only with the usurpation of power. If its own interest or caprice is served, it is indifferent whether its policies work for the interest of the people or not.

It is a debatable question whether in this country a government based on the influence of a majority party would be better than a super-party government. The latter is free from many abuses to which a party government will inevitably be exposed. Such abuses can be prevented only by the vigilance of the public and by a highly developed sense of responsibility on the part of the political party. Neither the public nor the political parties seem to possess such qualities. Herein lies the weakness of the party government, and the strength of the super-party government. As long as political parties have no sense of responsibility to the people and are unworthy of their confidence, super-party government will be able to maintain its prestige.[12]

In the 1919 session of the Diet, the political parties as well as the government again proposed suffrage reform bills. The main features of these were similar to those of previous years. There were, however, marked differences, especially regarding the tax-paying qualification. The Kokuminto, the most liberal party, proposed a bill, first, granting the franchise to those who pay direct taxes to the extent of two yen per annum, instead of ten yen, and to those who are graduates of the high schools, normal schools, or those who have completed their military service; secondly, increasing the number of members of the House of Representatives in accordance with the population, one representative being allotted for every 130,000 in the counties and one for every 30,000 persons in the cities; thirdly, establishing regulations to prevent government interference in elections; and lastly, lowering the age qualification of the voter from twenty-five to twenty, and in case of candidates from thirty to twenty-five.[13] The Kenseikai also introduced a suffrage reform bill which was similar

[12] The *Chugai Shogyo*, March 21, 1918.

[13] The *Jiji*, December 29, 1918.

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to that of the Kokuminto except in regard to educational qualifications. As to the latter, the Kenseikai, while maintaining principles similar to the Kokuminto, restricted its provision by inserting a clause that "only those graduates from high school who are maintaining an independent living shall have the right of suffrage." [14] Following the lead of the Kokuminto and Kenseikai, the government also proposed a suffrage bill. The main difference between the government bill and those of the Opposition was that the former adopted the small electoral system, dividing the country into 373 districts [15] while the latter maintained the principle of a large electoral system on the ground that the small electoral system was unsatisfactory in the matter of minority representation.[16]

That the trend of public opinion was undoubtedly toward democracy was revealed by public opinion itself as well as by the debates which took place in the Diet. There were many politicians as well as plain people who were dissatisfied with the proposed suffrage bills based on the property qualification. The students of Tokyo Imperial University, which hitherto has been regarded as a hotbed of bureaucracy, organized a movement supported by the radical members of the House to bring about manhood suffrage. They presented to the Emperor a petition which read:

When the late Emperor Meiji established his Government at the beginning of his era, he wisely announced that the policy of the country should be decided by public opinion. Thus we, the subjects of your Majesty, were granted freedom and opportunity to respond to your Majesty's benevolence by directly participating in the affairs of state. In spite of this fact, the politicians in the government have exerted themselves for the last thirty years to prevent us from obtaining full rights of participating in politics, which are to be duly granted to us, by establishing a law which regulates the qualification of franchise holders. Due to the great changes which have taken place in the political and social situation at home and

[14] *Toyo Kezai Shinpo*, No. 483, March 5, 1919, p. 38.

[15] Tokyo, *Asahi*, February 27, 1919, p. 4.

[16] Speech by Representative Saito in the House on Suffrage Reform, March 8, 1919. *Jiji*, March 8, 1919, p. 2.

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abroad the time has come when the country should adopt universal suffrage as the basis of the nation's political activity. We, the members of the National Students' League, hereby desire to express the thoughts of seventy millions of Your Majesty's faithful subjects, while earnestly praying for the long reign of Your Majesty and the prosperity of our country.[17]

Mr. Ozaki, a radical member of the Kenseikai, was one of the strongest advocates of manhood suffrage. At a meeting on February 9, 1919, at Nagoya, he delivered the following speech on universal manhood suffrage:

The late Emperor, soon after ascending the throne, issued a message declaring that the administration of the country should be based on public opinion and that the principle of equality among all classes of the people should be observed. The Constitution was framed in this spirit and put into force. As a matter of practice, however, this principle is not strictly observed. According to the law of the House of Peers, Princes and Marquises occupy hereditary seats in the chamber without election. In the Upper House there is another class of members who are elected from the big tax-payers. The state, however, does not exist by reason of the high tax-payers alone, and there are a large number of men in different walks of life who are as much entitled to seats in the House on account of their contribution to the state in various respects as are all these big tax-payers. Moreover, the property of those big tax-payers is created only by the co-operation of the poorer class. For instance, the wealth of the land is really created by the tenants who cultivate and produce it. No landlord can cultivate vast areas of land by himself. Therefore, in a sense, the tenants themselves are directly paying the tax. The present prevailing practices are contrary to the principles of equality and must be interpreted as recognizing a difference in political rights between the poor and the rich. Similar instances of class distinction may be given. Students known for their superiority in the colleges and schools have to bow before the sons of the rich, once they are out in active life, no matter how able they are or how talented. No wonder that the dissatisfaction engendered by such inequality should find vent on such occasions as the rice-riots of last year.

[17] *Japanese Advertiser*, February 10, 1919, p. 10.

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Nothing could be more advisable or effective than the adoption of universal suffrage for the realization of equality among all the classes. Different views are advocated as to the lowering of the property qualifications of voters, but it is quite absurd to wrangle over the matter. Suppose the qualification of voters be lowered to payment of a two yen tax, then the number of voters to be obtained by this process will be only 4,000,000 out of a population of 60,000,000, and the extent to which the prevailing discontent regarding the unequal distribution of the suffrage would thus be removed must be considered infinitesimal.

At present laborers are entirely excluded from taking part in politics. This omission must be rectified. An essential condition of the administration of a country should be the safety and security of living among all classes, but under the present condition there is neither safety nor security of living among such classes as school teachers and minor officials. Under such circumstances it is not surprising that there should take place an irresistible movement for the removal of the existing bars of inequality.

Nothing is more dangerous than the worship of bureaucratic ideas, which have brought ruin to Russia and Germany. Some years ago an argument was advanced in the House of Peers that it would be dangerous to allow universal suffrage, and that it was absolutely necessary that some property qualification be adopted. In other words, the advocates of this theory imply that all the Japanese who do not pay any direct tax are not intelligent enough to vote or are even dangerous. It should be remembered, however, that the same people who are not intelligent or who are even dangerous are recruited as conscripts for the defense of the country. This is the height of absurdity and partiality. For these reasons it is only just and right that the existing unequal distribution of political rights be abolished and universal suffrage be adopted.[18]

The Miyako entertained the same opinion as Mr. Ozaki and it attacked vigorously in its editorials the proposed suffrage bills based on the property qualification. It said:

The present franchise system is inadequate in that only a limited number of men have the privilege of voting. In Japan there are only 1,500,000 electors. The comparison of the number of the

[18] Speech of Representative Ozaki on universal suffrage, February 9, at Nagoya, as quoted in *Japan Advertiser*, February 11, 1919, p. 10.

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electorate in our country with that in England indicates that we men are not given a right equal to one-fourth of that of the British women to participate in the nation's council. We now possess an army as large as that of Great Britain. The government encourages the men to serve the country regardless of their property qualifications, saying that to become a soldier of the Emperor is the noblest duty of a Japanese. That is all right, but why are the majority of our countrymen not allowed to take part in national politics? In a word, the authorities recognize the full value of a Japanese man as a soldier, but in their eyes his value as a voter is hardly as much as one-fourth that of a British woman.[19]

These extracts which could be multiplied by thousands taken from resolutions, speeches, and writings, clearly indicate the trend towards democracy in Japan at present. In 1911 when the universal suffrage bill which passed the Lower House was rejected in the Upper House, one could hardly find any popular argument or press comment; but the political atmosphere of 1919 was entirely different.

On February 26 the Cabinet introduced a suffrage bill in the House. Mr. Tokonami, Minister of Interior, delivered a speech stating the reason for introducing the bill. He said:

More than eighteen years have elapsed since the present election law was put into force, but it has not succeeded in bringing about the purpose for which it was designed. A reform of the law in keeping with the requirements of the period has long been recognized as necessary, though so far the government has not been able to put the required revision into concrete shape. According to the existing law the number of voters is 1,440,000, which represents 2.6 per cent. of the total population. The percentage is too small to form the basis of a real representative system of government. The Government, however, is of the opinion that too radical a change is not advisable, and so it will adhere to a policy of gradually extending the suffrage.

With regard to fixing the qualifications of voters, various theories have been advanced; but the Government is convinced that it would be most advisable, in view of the prevailing condition in the

[19] The *Tokyo Miyako* as quoted in the *Woman Citizen*, Vol. III, No. 36, February, 1919.

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country, for the property qualification to be fixed at an annual payment of a three yen tax. In case the qualification is lowered to three yen as proposed, the number of voters will be increased from 1,460,000 to 2,860,000—nearly double the present number. It has been claimed by some that "the intellectual class" should be included among the voters. The demand, though it may appear reasonable at a first glance, will be found untenable on closer scrutiny. It is contended by the advocates of this theory that all graduates of high schools and higher colleges should be given the franchise. It should be observed, however, that besides the school graduates there are many men who are as intelligent and educated as these graduates. Consequently it would be difficult to make education a basis of suffrage qualification, and, if adopted, it could hardly be considered fair and impartial.

The existing system of the large electorate was adopted with the hope of eliminating bribery and other questionable methods which were made easier on account of the small electorate. The experience of the last ten years has demonstrated beyond all doubt that, with the large electorate, corruption is made easier than in the old small electorate and therefore the Government, taught by experience, has mapped out a system of small electorates which will be most suitable to the condition of the country.

In the bill before the House the Government has allotted the number of representatives roughly at the rate of a representative for 130,000 people. The result will be that the total number of Diet members will be increased to 464 showing an increase of eighty-three over the present number. In other words, the number of members for the urban districts will be increased from 75 to 112 and that of members for the country districts from 305 to 352.[20]

As to the change in the electoral district, the government vigorously insisted upon the small district system. Mr. Tokonami, Minister of the Interior, gave the following reasons for this: (1) Decrease of the election expense; (2) elimination of election contests among party members in the district; (3) development of the political ideas of the district; (4) more justice in the results of elections; (5) elimination of the trouble of by-

[20] Speech of Minister of Interior in the House, February 25, *Tokyo Asahi*, February 26, 1919, p. 2. Translation in *Japanese Advertiser*, February 26, 1919, p. 10.

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elections in whole prefecture; (6) stricter enforcement of election laws; etc.[21]

The Opposition vigorously opposed the change. "The Government bill for small electoral districts," says Hon. Uyehara, "will greatly increase the practice of selling and buying votes. It is possible neither to have a fair election nor to elect ideal candidates." [22] During the first six elections under the small district system, candidates were elected on the average by sixty-five per cent. of the total votes cast, while in the seventh to the thirteenth elections under the large district system candidates were elected on the average by seventy-nine per cent. of the total votes. Even so, under the small electoral district system the number of votes received by those defeated in the election often exceeds the votes received by those elected, especially when there are three candidates in a district. For instance, in the twelfth general election, the total number of votes the candidates-elect received in six independent districts, Tsushima, Takasaki, Hirosaki, Ogi, Tokushima, and Oshima, was 1,927, whereas the total number of votes received by those defeated was 2,693, that is, men were elected in those districts by forty-two per cent.; "therefore the small electoral system is by no means an ideal system." [23] As has been shown elsewhere, the chief defect of the small electoral system is the impossibility of furnishing a fair representation to the minorities. It also tends to create too much sectionalism which makes it impossible for any independent candidate to run successfully against the party machine.

After spirited debates which lasted for almost two weeks, the Government bill passed the Lower House with a majority of 61 out of 349 votes cast. The same bill also passed the Upper House with a majority of 204 out of 228 votes cast.[24]

The main features of the new revised law are:

[21] Minister Tokonami, Speech on Suffrage Reform.—The *Tokyo Asahi*, p. 2, February 26, 1919.

[22] Dr. Uyehara, on Suffrage Reform. *Ibid*, February 27.

[23] Mr. Saito, Problem of increasing the electorate and electoral district. *Taiyo*, February first issue, pp. 115–116.

[24] *Shin Horei Taiyo Zokan*, p. 94. May 20, 1919.

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1. Small electoral districts with the principle of single member constituencies.[25]

2. Reduction of the property qualifications from ten yen of direct national taxation to three yen annually.

3. Redistribution of seats and an increase of 83 in membership of the House of Representatives, *i. e.*, from 381 to 464.[26]

This latest law increases the number of voters by 1,400,000. It, however, still excludes a large number of the small agricultural and landholding classes. Moreover, as the revised law is still based on the principle that the property holding class should have a special privilege, it excludes a large number of the intelligent class. The following will serve to give a general idea of Japanese democracy in respect to suffrage:

	In Cities	*In Counties*	*Total*
Number of voters with college education under the law of 1900[27]	36,000	70,000	106,000
Number of voters with college education under revised law[28]	48,000	95,000	143,000
Number of voters with high school or similar educational standing under the revised law[29]			150,000
Total number of voters regardless of education under the law of 1900 in March, 1919			1,460,000
Total number in the next election			2,859,000

[25] In counties the districts were roughly divided, making one representative for each 130,000; however, there are five districts which elect one representative for about 190,000 population, while there are also twelve districts which elect one representative for 90,000. Speech of Minister of Interior, February 25, on the floor of the Diet. Larger cities, as in counties, elect one representative for every 130,000. Senkyo HO Kaisei Yomoku—*Nichi Nichi*, p. 2, February 25, 1919. Smaller cities elect one representative for every 30,000.

[26] *Tokyo Nichi Nichi*, February 23, 1919, p. 3. Under the law of 1900, cities were represented by 76 against 305 in counties; under the revised law of 1919, cities will be represented by 112 and counties by 352. There will be 378 electoral districts; single-member districts, 298; two-member districts, 69; three-member districts, 11.

[27] Tokonami, Minister of Interior (Kikairoku).—The *Kokumin Shinbun*, March 12, 1919.

[28] Tokonami.—Tokyo *Nichi Nichi*, February 26, 1919, p. 2.

[29] There are about 180,000 high school graduates alone who are excluded, solely because they are not tax-payers of 3 yen a year. It is said that among 180,000 there are only 40,000 or so who can have an independent living. Representative Saito—Shiugien Kaiseiho, *Nichi Nichi*, p. 2, February 26, 1919.

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Considering the fact that only the small landholding class enjoys the reform, the revised law failed entirely to satisfy the majority of the liberals.

Scarcely a year has passed since another movement for the extension of suffrage has taken place in Japan. Even such an ultra-conservative paper as the *Kokumin* began to declare itself for universal suffrage as follows:

What is welcome to the disaffected classes in Europe and America is not Christ's, but Lenine's gospel. This is an age of destruction. We urge universal suffrage as a means of limiting to a minimum the evil effect on the country of this general tendency of the world and as a safety-valve for dangerous ideas. Besides, no one can deny that a great many difficulties lie in the path of the Empire, and it is as certain as the sun will rise to-morrow morning that a great capitalistic force will bring pressure to bear on the Empire sooner or later, in some form or other; and this danger can only be faced by a general mobilization of the nation. Now, in order to make an effective physical mobilization of the nation in case of emergency, it is necessary that the latter should be placed in a state of moral mobilization in ordinary times—in other words, it is necessary that the nation should be allowed to participate in the government and made fully interested in, and conversant with, the administrative and diplomatic policies of the Empire. In short, we urge universal suffrage as a preparation for a general mobilization of the nation on the one hand and a safety-valve for dangerous thought on the other, and also for a political education and training of the nation, for one can learn how to swim only in water.[30]

The Tokyo *Nichi-nichi*, an organ of the middle class, also favoring the adoption of universal suffrage, remarks:

In days when the nation at large was backward in political knowledge, it was perhaps desirable for a smooth working of the legislative organ that privileged and propertied classes alone should have a share in the Government; when political intelligence is diffused in all sections of the nation, as it now is, the legislative organ, in the operations of which all the nation are deeply interested, should be common property of all. So not only should the tax qualification be abolished, but all males of twenty-five years and

[30] Quoted in *Literary Digest*, February 28, 1920.

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upwards, making their independent livelihood, should be admitted to the franchise . . . It is evident that even the Government and its party are alive to the necessity of adopting universal suffrage, although they hesitate to do so on consideration of party tactics.[31]

These editorials are only a few extracts from among many resolutions and writings appearing in magazines and papers.

The main features of the universal manhood suffrage bills are as follows:

	Kenseikai	*Kokuminto*
Tax qualification	None	None
Other qualification	Those who can live independently	
Age qualification for both electors and candidates[32]	25	20
Election district	Chu-senkyo-ku[33]	Small district

Besides these, the Kokuminto proposed a bill allowing all students above twenty years of age to vote, for the present total excluded, and also giving the franchise to the primary school teachers as well as to priests.

On February 26, 1920, a great debate took place in the Diet on the question of suffrage. The Government opposed this new bill on the ground that the election law passed in 1919 should be put to test before conferring universal suffrage upon all males in Japan. But the fact was, as revealed in Premier Hara's speech later, that the government was not anxious to participate in a democratic movement. In a speech before his own party, Premier Hara said: "Universal suffrage will bring a destruction of social class distinctions and is a menace to the conscription system."[34] The Government had found that both Kokuminto and Kenseikai united for the passage of this bill. Therefore, without awaiting a test vote which might have amounted to an expression of a lack of confidence in the Cabinet, the Government has ordered the dissolution

[31] *Ibid.*

[32] Tokyo *Asahi*, January 21, 1920, p. 3. The Kenseikai also proposed in the bill to increase the number of representatives from 462 to 485.

[33] District between *Scrutin de liste* and *Scrutin d'arrondissement* in size.

[34] Premier Hara, March 17, 1920.

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of the Diet by Imperial decree. This is the first dissolution of the Diet on the question of suffrage in our political history. Hitherto the majority of dissolutions have resulted from an exercise of the Diet's right of address to the Emperor showing a want of confidence in the government.

A general election was held on May 10, 1920. The result, as predicted, was a land-slide victory for the Government. It secured over sixty per cent. of the members in the newly elected House of Representatives. One of the most striking characteristics of this election was that the Government party (Seiyukai) lost heavily in the urban districts while the Opposition lost in the country districts. This indicates that the extension of suffrage is favored by the urban voters while the conservative voters in the country are against it.

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Chapter V

DEMOCRACY AND LOCAL GOVERNMENT

It is interesting to note that the Japanese method of providing for local participation in the work of administration is quite different from the American method, in that local government is conducted by officers who are agents of the central government, and who are at the same time executives of local administration. In this system local power is given by the Diet by general grant, but exercise of it is subject to central administrative control. The Diet has never attempted to enumerate the duties of the local corporations with the same minuteness as in America. The laws simply enumerate the principles of local administration, leaving the localities to carry them out in detail. The local corporations are not, therefore, as in America, given specific powers, but have the right to exercise all such powers as they wish provided they do not violate the letter or the spirit of the law. However, they are subject to a rigid central administrative control which prevents them from encroaching upon the jurisdiction of the central government and from acting extravagantly or unwisely.

Throughout Japanese local government the principle of separation of matters of general and of local administration is sharply drawn. Such subjects as police, schools, and the supervision of subordinate local authorities are deemed to affect the whole country, and are placed in the hands of persons who act as agents of the national government; while the construction of roads, the establishment of market houses, the maintenance of almshouses, and the voting of appropriations for local purposes are regarded as matters of local interest.

Another feature of Japanese local government is the distinction between professional and lay (honorary) officials. It

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is said that the introduction of unpaid or lay officers into local government lessens the influence of the bureaucracy in local affairs and tends to draft into the public service the better class of private citizens and at the same time to interest the people in local self-government. All professional officials are members of the Japanese bureaucracy. Before they are qualified to hold positions, they are required to go through an elaborate training, and to pass a civil examination. The non-professional officers have no special training, but are selected from among the members of the assembly.

Japan proper is divided for the purpose of local administration into forty-three prefectures and three Fus, excluding Hokkaido, Taiwan and Chosen. These are sub-divided into sub-districts or counties in which urban and rural communes are organized. Rural communes are the smallest local entities; they differ somewhat in area and population. Urban communes are of two classes. One is called the city and is an independent municipal county; the other is the urban commune called Cho or Machi. The organization of government within these divisions is practically uniform and is characterized by the vesting of executive power in a single officer, called governor or prefect in the Fu or prefecture, Guncho in the counties, and mayor or headman in the communes. The administrative relation of these divisions is highly hierarchical. Appeals go from each local government to the next above it. The whole system of Japanese local administration is quite similar to the Prussian and French hierarchical administration of local government.

Like the national election laws, the prefectural election laws (Fu-ken-sei) place restrictions in the way of property qualifications both upon the electorate and candidates. The principle laid down in the law is that only those who show sufficient evidence of attachment to the community are entitled to suffrage. This evidence must be in the tangible form of the possession of a certain amount of property. Article VI, which prescribes the qualifications of an elector, provides that "for

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not less than one year previous to the date of the making out of the electoral list, he must have been paying a national direct tax of three yen or more, and must be still paying the same." The results of this provision were that the voting constituency was limited to 2,384,078 [1] in all prefects, fus, and Hokkaido. As the population of Japan at present is about fifty-five millions, this means about one voter to every twenty-three persons.

The same characteristics are evidenced in the requirement of property qualifications for the legislative candidates. The law reads: "Those inhabitants of the communes alone shall be eligible, who are male Japanese of not less than fully twenty-five years of age and who, in the Fu or Ken, in which they desire to be elected, have been paying direct national taxes to an amount not less than ten yen, one year previous to the date of the making out of the electoral list, and who are still paying the amount of direct national taxes." [2] Consequently the law disqualifies many men of ability and intelligence fit to serve their prefects as members of the Assembly. As the Assembly is an honorary office, its members are not compensated for their service.

The system which eliminates the greater part of the intelligent class from exercising political rights, coupled with the helplessness of their representatives, is largely responsible for the extensive apathy of the voters in prefectures in Japan. In 1915 there were 2,384,078 [3] voters, of whom those who actually exercised their political rights were only 1,924,068.[4] Out of that number the valid votes amounted to only 1,896,210. There were 460,027 [5] absentees, that is, more than one-fifth did not take a part in the election at all.

The prefectural governmental organs consist of an executive and two deliberative bodies—council and assembly. The members of the assembly are elected for a term of four years.

[1] *The Teikoku*, No. 36, *Tokei Nenkwan*, p. 647, 1918.
[2] Fu-Ken Sei, Article VI.
[3] *The Teikoku Tokei Nenkwan*, No. 36, p. 647, 1918.
[4] *Ibid.*
[5] *Ibid.*

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The size of the assembly varies according to population. The minimum number required is at least thirty in those prefectures which have a population of less than 700,000. The matters that are to be deliberated and decided by the assembly are principally the following: The determining of the budget; the making of reports on financial estimates and settled accounts (Kessan Hokoku ni kwansuru koto); the determining of the mode of imposing and of collecting duties for use (shiyoryo), fees, prefectural taxes, and services in person or in kind, so far as not determined by laws or Imperial ordinances; alienation, purchase, exchange, or mortgage of the immovable property of the prefecture of Fu; and the determining of the modes of management of the prefectural property and establishment.[6]

The prefectural law also empowers the assembly to deliberate and decide anything within its legal jurisdiction. This vague and comprehensive authority is accompanied by a careful supervision and control on the part of the government; hence the governor or prefect, as the agent of the national government, has an extensive supervisory power. In all matters, whether it be the budget or ordinary legislation, the function of the assembly is merely deliberative. Its resolutions can be carried out only after they have been approved by the governor who has power to veto subject to confirmation by the central government. Even as to appropriations, the power of the assembly is not great. The assembly can not refuse any appropriation necessary for the execution of any laws already enacted. If the appropriations are not made by the assembly, the governor with the advice of the Minister of the Interior, may include the necessary amount of such expenditures in the budget in order to carry out laws or Imperial ordinances already upon the statute books. The law provides:

In case the prefectural assembly has not taken up necessary bills or has failed to conclude its deliberations thereon within the period of meeting, the governor with the consent of the Minister of Interior

[6] Fu-Ken Sei, Article XLI.

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may determine the amount of the local expenditures and the means of defraying them and execute his plan.[7]

The sessions of the assembly are brief. It meets regularly once a year, but its duration is limited to a month, and although extra sessions can be held for a week at a time, discussion in such sessions is confined to the special subject upon which the session has been called.[8]

The functions of the council, like those of the assembly, are largely deliberative. The council formerly was the standing committee of the assembly. The Imperial Decree No. 49, issued November 5, 1880, reads:

The Standing Committee shall be consulted by, and give advice to, the Governor in accordance with the resolutions of the Assembly, upon the works which are to be paid for out of the local taxes. In case of urgent necessity, the Standing Committee may decide the amount to be spent upon such works, and report the same to the Assembly later. The Committee shall also receive bills to be introduced by the Governor into Assembly, and shall give its opinion.

These Standing Committees have been gradually transformed into a council which since 1899, has exercised advisory powers in the local administration.

At present the council is composed of a governor, two high officials, and non-professional members who are elected for a year by the assembly from among its members. The functions of the council as enumerated in the Fu-Ken Sei under the revised laws of Meiji 32 are as follows:

(1) To deliberate and decide those questions which are entrusted to it by the assembly, provided such questions are within the legal jurisdiction of the assembly; (2) to deliberate and decide, on behalf of the assembly, any question which requires urgent attention when the governor has no time to call a special session of the assembly; (3) to express its opinion on the bills to be introduced by the governor into the assembly; (4) to deliberate and decide upon the management of public property in conformity with the resolution of the assembly;

[7] Article LXXXII–LXXXV.
[8] Fu-Ken Sei, Article L.

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(5) to determine the regulations in reference to the carrying out of public works to be paid for out of prefectural funds, provided such regulations are not still made by the laws, etc.

Besides these functions the council performs within certain limits judicial functions, such as the settling of claims against the prefecture and the decision of disputes between communes.

The meetings of the council are secret, and they are held more frequently than those of the assembly. The prefect can call the council at any time; upon the demand of the honorary members of the council, he must do so if such demand is reasonable. The attendance of the chairman (governor) or his representatives and at least one-half of the honorary members of the council is required for the validity of any meeting.[9]

The supreme authority is placed in the chairman of the council, namely, the governor. Just as the council may refuse to amplify the resolutions passed by the assembly when it believes them to be illegal or improper, so may the governor control the action of the council. If any decision of the council appears to exceed its jurisdiction, or is prejudicial to public good, the governor may, upon his own judgment, or by instruction of the Minister of Interior, suspend its execution.[10] If the council is not satisfied with the decision of the governor, the case may be taken into the administrative court.[11] In case of an emergency the governor can settle any question without the council upon his own judgment, making report of his decision at the next meeting.[12]

The governor is central figure in Japanese local administration. He is appointed by the Emperor by the advice of the Minister of Interior, and holds office during his pleasure.[13] He is the chief agent of the national government, and under the direct control of the Minister of Interior in all ordinary

[9] Fu-Ken Sei, Article LXXIII.
[10] Article LXXXII.
[11] *Ibid.*
[12] Article LXXXV.
[13] The governor is appointed by the Minister of Interior in practice.

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matters; but in finance he is responsible to the Minister of Finance. He is both a central and a local officer. As a central officer he is to see that all laws, ordinances and instructions sent out by the ministers are put into operation.[14]

It is significant that as an agent of the general government the governor fulfills a legal rôle as electioneering agent of the government, and it is his activity in this respect that has become one of the chief sources of his unpopularity. It is frequently said that the first requisite of a good governor is that he should make a good electioneering agent in carrying the prefecture for government candidates. When a political combat between the government forces and the Opposition becomes acute, the government is said to instruct secretly either the governor or the police commissioner to use his influence in favor of government candidates. In 1916 Police Commissioner Niki resigned his position because he was dissatisfied with the interference of Baron Goto, then Minister of Interior, who instructed him to suppress the candidates of the Opposition. He announced his reasons as follows:

> The circumstance which caused my resignation was not due to the fact that the present cabinet is a super-party government opposing the interest of the people, but it was due to the fact that a man like Goto with such a responsible position as Minister of Interior interferes unjustly with elections under the pretense of law and order. How culpable it is to have such interference from Goto who publicly instructs his subordinates to do justice and contemptibly and secretly instructed me to persuade a certain person to become a candidate against the Opposition candidates. When Mr. Tatsubana, with instructions from Goto, tried in vain to induce his father to become a candidate, he persuaded Mr. Inugari through his relatives, who declared publicly that Mr. Inugari's candidacy would be backed by the governor. When this was unsuccessful they blamed the governor and the injustice of the police commissioner (me). I can not stand for instructions which usurp the police power so long as I am head of the police in the prefecture. The government knows well that I am legally forbidden to take part in politics.

[14] Article LXXVIII.

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To ask me to use my influence to make some person a candidate against the Opposition is clearly against the spirit of the law.[15]

The prefect has the power to appoint and to dismiss a large number of officers employed in the administrative services of the local government (including even the school teachers), subject in some cases to the approval of the Minister of Interior. The prefect also has power to issue either for the whole territory under his control or for a part of it, city or prefectural ordinances relating to administrative and police business. These ordinances and police powers give the prefects a large opportunity for interfering in local affairs, and this is a constant source of complaint. As head of the police offices, he can direct all police officers and determine the distribution, separation, and uniting of branch police offices in each urban and rural division.[16] He even has the power to call the militia in any case of extraordinary emergency.

Although the power of the governor is so extensive, there is a growing tendency for the governor to work in conjunction with the representatives of the people.[17] He is realizing that without co-operation with other members of the council he can not successfully govern the prefecture, especially as he is often a stranger in the state where he is stationed. Furthermore, his tenure of office is very uncertain. He is subject to transfer from one place to another. This phenomenon becomes more striking and more frequent with the growing of party influence. If the governor acts contrary to the interests of the assembly or non-professional members of the council who not only are representatives of the people, but also are affiliated with a party, the people or their representative can take up the matter directly or indirectly before the Minister of Interior,

[15] *Shinbun Nenkwan*, June, 1917, p. 139.

[16] Rules for Police Administration, Article II. Meiji 8 (March 7), Taisei Kwan Tatsu, No. 29. See also Shiho Keisatsu Rei, Article III.

[17] The proof of this tendency is that the governor usually listens to the popular wishes in removing local officers or teachers. The growing tendency towards local self-government is making the governor feel more responsible to the people of the prefecture. Though appointed by the Minister of Interior, he frequently owes his appointment to the favorable influence of the representatives from his prefecture.

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who is ever anxious to win the favor of the people, because his opposition to the interests of the people will result in the defeat of his party, assuming he is a member of some political party. Even if he is not a party man, the government will gain nothing by retaining a governor who is unpopular among the people of a prefecture. The government knows it is essential to avoid any unnecessary conflict with the people in order that its bills may have a smooth path in the national Diet, since every member of the council or assembly [18] is directly affiliated with the national political parties.

However, it is interesting to note from the following incident how the governor can exercise his enormous power arbitrarily.

In 1882 Governor Mishima was transferred to Fukushima-Ken, and it was rumored he had been sent to suppress the liberal parties in that province. It was reported that he had said: "As long as I am the governor, I shall see that thieves and the liberal parties shall not raise their heads." Immediately upon assuming his duties in Fukushima-Ken, he dismissed ninety officers in the prefecture and substituted for them persons who were politically acceptable to him. He planned to construct two highways connecting his prefecture with Niugata and Yamagata. Without asking any appropriation or making any survey, he forced the people to pay 370,000 yen for the purpose. He ordered the people of six sub-prefectures, who were between fifteen and sixty, regardless of their wealth or poverty, to work one day in every month for two years. He charged those who could not work fifteen cents a day in case of men, and ten cents a day in case of women. He ordered the dissolution of the assembly of the towns and villages which opposed his plan.

In connection with the prefectural government the Assembly of the Prefectural Governors should be considered. The first

[18] In 1915 the party affiliations of the 3 Fus and 40 prefectural assemblies were as follows: Seiyukai 641; Doshikai 566; Chusei kai 55; Kokuminto 108; no party affiliation 271. See Kokumin Nenkwan, 1916, p. 124.

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session of the assembly was convened in 1875. The purpose of the convention was to apprise the central government of the condition of local affairs, to provide the facilities for the exchange of views in matters of local administration, and to discuss the bills submitted by the national government. It was said that the government in establishing this institution was to form some sort of foundation preparatory to the adoption of representative government. The reason of the government in summoning the governors was clearly stated in the imperial decree issued at the time, which read:

> In accordance with the meaning of the oath taken by Me at the commencement of My reign and as a gradual development of its policy, I am convening an assembly of representatives of the whole nation so as by the help of public discussion to ordain laws, thus opening up the way of harmony between governors and governed and of the accomplishment of national desires, and I trust by ensuring to each subject throughout the nation an opportunity of peacefully pursuing his vocation to awaken thus a sense of the importance of matters of state.
>
> I have therefore issued this constitution of the deliberative assembly providing for the convening of the chief officials of the different local jurisdictions and for their meeting and deliberating as the representatives of the people.[19]

Mr. Kido, president of the Assembly, submitted for its consideration the question of a popular legislative assembly, though the majority of representatives maintained that the condition of the country was not right for such an advanced step. Thus we can see that the establishment of this institution was intended to serve as a preliminary to the Constitution. However, the assembly of the Prefectural Governors has changed its nature in recent years. Instead of fostering the development of constitutional government it tends to retard it.

According to the plan of its establishment it had the power to end its existence when the Diet [national legislative body], was established. The purpose of establishing the Assembly

[19] Imperial Declaration, No. 58, May 2, 1874. Translation in English is quoted in Professor McLaren's Japanese Government Documents, p. 505.

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was to make the local authorities deliberate on the national administrative policy prior to the organization of the national Diet. The Assembly no longer fulfills the object for which it had been established. It is today convened as one means of extending the influence of bureaucracy. It does not increase the power of the people in local government. Once in every year at present the assembly is convened, usually right after the adjournment of the Diet, for the purpose of instructing the governors on the policy of the nation or of consulting with them on local conditions.

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Chapter VI

DEMOCRACY AND MUNICIPAL GOVERNMENT

Our scheme of municipal government, like the rest of the Japanese system, originally came from Germany. It was drafted by a German scholar under the guidance of Prince Ito, who was largely responsible for drafting the present Japanese constitution. A municipal law was promulgated together with statutes for the organization of towns and villages, April 14, 1888, to go into effect a year later. Although the present municipal law is based on the revised laws of 1911, the principle as well as the spirit of its administration has not been changed.

The preface to the decree of promulgation of the communal law is as follows:

Animated by a desire for the development of the advantages attending the communal union of the country and for the promotion of the welfare of our subjects in general, and recognizing the importance of maintaining and of further extending the old customs of inter-relationship between neighbors, and of protecting the inherent rights of cities, towns, and villages by a new law, we give our sanction to the present law on the organization of cities and to that on the organization of towns and villages, and render it to be duly promulgated.[1]

Japanese political writers complain that many matters of purely local interest are administered and controlled by a minister at Tokyo who from his office may touch a button and give orders to 43 prefectures, 3 Fu, 636 sub-prefectures, 74 cities, 12,218 towns and villages.[2] Perhaps there is not a community in Japan today, however remote, in which the government at Tokyo does not have an agent to whom it can give

[1] Clement, p. 294, *Political Science Quarterly*, June, 1892.
[2] *Kohumin Nenkwan*, 1919, p. 143.

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orders. The government is in close touch with local problems through the prefectural governor and the guncho, the head of the sub-prefectures.

The administration of the communal government is highly centralized, and to a large extent the principle of centralization prevails in respect to legislation of a local character. It is said by the government that this supervision or control is necessary for the protection of tax-payers against the extravagance and wastefulness of municipal councils, as well as of citizens against possible arbitrary conduct of mayors and councils, who, through their rather broad powers, might violate the rights of individuals. It is argued that the powers of the communal authorities over finance must be kept in check by means of some form of central control in order to prevent the dissipation of communal property and resources and to forestall any inexpedient heavy loans which might oppress property owners because of resultant burdensome taxes.

It is said that such powers of supervision and control as are exercised by the central executive over local authorities in Japan, as in Prussia, is justified solely on the theory that all local government is a devolution of State function and authority. The State has renounced certain powers, but subject to the condition that it may still retain the power to satisfy itself that these powers are properly exercised by the authorities to which they have been transferred. How rigid is the State in supervising the enforcement of its law can be seen from the fact that in 1915 Mayor Okuda of Tokyo received a disciplinary punishment from the governor of the Tokyo prefecture for his inefficient management of primary schools in the city. This disciplinary punishment seems to be unreasonable when we consider that the mayor in Japanese cities has no appointive power over the teachers in public schools.[3] The State imposes upon the local authorities the duty of discharging the state laws, such as those relating to the protection of the public

[3] (The *Taiyo*, 1917, November issue, p. 163)—Municipal System of Tokyo, J. Taniya.

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health, an efficient school system, the preservation of public order, and the performance of other services which concern not merely the local inhabitants but the people of the entire country.

The power of the local legislative body as such is much restricted, and in consequence many local matters are directly regulated by the national government at Tokyo. The communes, as a result, often suffer from the inevitable delays incident to such a system, to say nothing of the inconvenience which arises from their dependence upon the national legislation with the approval of the government. Not infrequently the communes are compelled to wait months or years for the necessary authority to undertake a new project or to levy an additional tax which has been made necessary by the action of the Diet itself in imposing upon them the burden of establishing and maintaining a new service. If the government would surrender its power of local legislation and transfer it to the local assemblies where it seems more properly to belong, it would relieve the Diet from the burden of legislating upon local matters for which it has neither time nor knowledge. At the same time it would free the representatives from the constant pressure to which they are subjected by their constituencies.

While the mayors of the communes are chosen by the municipal assembly, and while communes, like prefectures, have popularly elected assemblies, they are subject to strict control by the central government at Tokyo or its representatives in the provinces. The mayor may be removed from office by decree of the Emperor with the advice of the Home Minister,[4] or he may be suspended from exercising his functions by the governor.[5] In practice, however, these powers of removal and suspension are rarely if ever exercised.

Certain acts of the municipal assembly are also subject to superior authority. Those measures affecting the disposition

[4] Article CLXX (Municipal Law), issued April 6, 1911. Law No. 68.
[5] *Ibid.*

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of communal property, those relating to financial affairs, such as the budget, supplementary appropriations and loans, and acts for the establishment of fairs and markets, require the approval of a representative of the central government, usually the prefect, but sometimes the council of the prefecture.[6] Various other acts of the municipality such as alterations of communal boundaries require authorization by the prefectural council.[7] Any act of a municipal council may be annulled by the prefect, if it is considered *ultra vires*, and so may any act in the passage of which a member of the council has a personal interest.

In case the mayor refuses or neglects to perform any duty prescribed by law, the prefect may, after requesting him to perform the act, proceed himself or by a special delegate to execute the act.[8] If the duty required is one which devolves upon the mayor as agent of the central government, the conferring of this power upon the prefect is entirely logical; if, on the contrary, the duty is one which rests upon him in his character as agent of the municipality, the exercise of this power involves a distinct encroachment upon the freedom of the municipality. In this case he may appeal directly to the Minister of Interior.[9]

As to suffrage, the municipal law divides the people of the city (town and village) into two classes: those who can vote and those who can not. The former are called "citizens;"[10] the latter, "residents."[11] The "residents" of a city (town or village) include all those who have their residence in the city (town or village) without distinction as to sex, age, color, nationality, or condition in life. A "citizen," however, must be an independent male person, that is, "one who has completed his twenty-fifth year;" he must be "a subject of the Empire

[6] See Article CLXV–CLXVII.
[7] *Ibid*, Article IV.
[8] *Ibid*, Article CLXIII.
[9] *Ibid*, Articles CLVIII and CLXIII.
[10] Article IX.
[11] Article VIII.

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and in the enjoyment of his civil rights;" and for two years he must have been a resident of the given local division, and must have paid therein a "national direct tax" of two yen or more. The citizen has the privilege of franchise in the local elections, and of eligibility to the honorary offices.[12]

One of the most peculiar features of suffrage qualification is that a juridical person is allowed to vote in municipal elections through its representative.

There are certain disqualifications, some permanent and others temporary; the former include chiefly judicial conviction for certain offences, and the latter, bankruptcy and refusal to undertake honorary civil office when required.

Under this system, the voters of a city are divided into three classes according to the amount of direct national taxes they pay. The classification is made in the following manner: The total sum of the taxes payable by them is ascertained, and this is divided into thirds. The names of electors are arranged in a list according to the taxes they pay, the highest tax-payer being first on the list. The electors are then divided into three groups. The first group contains the names of those whose tax payments will make exactly one-third of the total taxation; the second contains the next following names whose tax payments will make a second third and the the third contains the remaining names. Provisions exist to meet the case of persons paying the same amount of taxes who may happen to fall into different classes.[13]

Each of these three groups elects one-third of the assemblymen from among the eligible citizens, the candidates being chosen irrespective of the classes.[14]

[12] Article IX and X. The service in communal council and assembly is regarded honorary as the service is not compensated.

[13] An elector, the amount of whose taxes may fall into two classes, shall belong to the higher class. Should there be two or more persons who pay the same amount of taxes, and they come between two classes, the one of these, as the case may be, whose residence in the city has been longest, shall be included in the higher class; when the matter can not be decided by length of residence, it shall be decided by seniority of age, and in case of impracticability of the latter, by lot drawn by the mayor. (Article XV.)

[14] Article XVIII.

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The effect of this three-class method of apportioning voting powers is that in cities with a considerable number of wealthy tax-payers, the well-to-do form the first and second classes, while the third class represents the vast majority of the small tax-payers.[15]

Another effect of this sytem is that two citizens of the same fortune will have entirely disproportionate political influence, if they live, one in a rich city and one in a poor city. If a prosperous citizen chooses to settle in a moderately wealthy city, he may totally upset the composition of the classes there, may control one-third of the electorates, and may even obtain personal representation in the city assembly.

The skillful use of this curious system of electing members of the assembly enabled one or two large corporations in a Tokyo district to secure a predominant influence in city politics. In 1911, in the district of Kojimachi-ku, the only voter in the first class was a juridical person who elected Mr. Kaneko.[16]

In the same district when the municipal election was held in 1916 the number of voters in the first class was only two juridical persons [17] who elected one member of the assembly; the number in the second class was five, of which four were juridical persons and one a citizen. The number of voters in the third class was 1,919 persons who elected also one member to the assembly. In this same district the population then numbered 65,893.[18]

In the municipal election of 1917, in the city of Osaka, the number of voters in a population of 1,557,989 was 31,744,[19] of

[15] In 1919 the Kenseikai, with a view of remedying certain undemocratic features in the municipalities, proposed a bill eliminating qualification to pay the national direct tax and giving a franchise to those who pay municipal taxes. However, the bill was entirely silent as to the three-class system. (*The Osaka Mainchi*), Editorial, March 19, 1919.

[16] "Baron K. Kaneko was elected a member of the city assembly of Tokyo as representative of the first-class tax-payers in Kojimach Ku. Then the Nippon Yusen Kaisha was the only first-class tax-payer in that district and it voted for him." Quoted in Clement's *Handbook of Modern Japan*, p. 139.

[17] These juristic persons were two corporations—namely, Steamship (Yusen) Co. & Kingyo (Bank), quoted in p. 3, Tokyo, *Nichi.*, March 14, 1919.

[18] *Kokumin Nenkwan*, 1919, p. 495 (Statistics based on report of 1917).

[19] *Kokumin Nenkwan*, 1919, p. 519 (Statistics of 1917).

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which 29,199 were voters of the third class; 2,287 were voters in the second; 258 in the first.[20] In the district of Kita-Ku, in Osaka, fifteen assemblymen were to be elected under the three-class system. One-third of that number, namely five members, were elected by five corporations, three of which had enjoyed either a special franchise from or a contract with the city to carry on a public utility.[21] "Under such a condition," says the *Osaka Mainchi*, "it is but natural that the corporations are anxious to elect their own candidates for their own selfish purpose, and as a result the canidates once elected think more of the interest of the corporations than of the interests of the public."[22]

An acute foreign observer declares:

> This system [the three-class system] must be responsible in great part for the almost universal apathy of the electorate, the voting power being so unevenly divided that voters do not think it worth while to exercise their franchise. Especially is this the case with the *noveau riche* middle class, composed of commercial and professional people, the great majority of whom are qualified to vote in the third class. Thus, in the election for the assembly held in Tokyo in 1905, there were 42,100 names on the voters' list, but only 7,915 votes were actually polled. In the third class there were 37,005 names and 5,816 votes, in the second 4,465 names and 1,825 votes, and in the first 630 names and 274 votes; or to put these figures in percentages, in the third class, 15.7 per cent.; in the second, 39.5 per cent., and in the first 43.6 per cent., or taking the average of all classes, 18.8 per cent. of the electorate vote.

Not only has it been impossible in the past to get more than a modicum of the electorate to vote at an election for a city assembly, but the system upon which elections are conducted makes it almost impossible to bring about any improvement in the ability of the

[20] *The Osaka Mainchi*, Editorial, p. 1, March 19, 1919.

[21] *Ibid.*

[22] *Osaka Mainchi*, July 9, 1919, p. 3.

The number of the voters of the three classes in Osaka is as follows:

	South District	*East District*	*North District*
First Class	64	43	5
Second Class	689	396	265
Third Class	9,904	7,505	6,965

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members of the assembly. The voting power is so unequal that, even if the vast majority of the electorate, say 80 per cent., were to be stirred up by a popular agitation in favor of honest government, it would be still possible for two-thirds of the members of the assembly to be elected by the remaining 20 per cent. of the voters, who conceivably might not be affected by the popular movement. In fact in Tokyo in 1905 one-third of the members of the assembly were elected by a little more than one-half of the one per cent. of the qualified voters.[23]

To be eligible for membership in a municipal assembly a person must be a qualified voter, that is, a person paying a tax amounting to two yen or more a year and enjoy full civil rights. However, many persons are disqualified by reason of their positions. Thus officials and members of personnel by which the prefectural government exercises control over the communes, salaried officials of the city, prosecuting attorneys, police officials, tax-collectors, priests, school teachers of elementary schools, those who contract with the city, and directors and managers of unlimited corporations doing business under contract with the city are excluded. The same disqualifications apply to father and son or to two brothers, who may not at the same time be members of an assembly, and, if both are elected, the older is admitted to membership.[24]

So far as the property qualifications of the candidates for the assembly are concerned, they are more undemocratic than in the national government where the property qualifications of candidates for the House have long ago disappeared.

The Japanese municipal code makes no provision for any system of primaries, caucuses, nomination papers, or, indeed, for any formal method of putting candidates in the field. As in France the absence of any nomination of candidates in advance of the actual polling is characteristic of Japanese municipal election. The candidates receive no official recogni-

[23] *Japanese Government Documents*, W. W. McLaren, *Transactions of the Asiatic Society of Japan*, pp. 97–99.

[24] Article XVIII—If father and son or two brothers are elected from the same district, the person who received the highest number of votes is declared to be elected.

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tion as in America. So far as the election authorities are concerned, they recognize no candidate for the municipal assembly; they set before the voter at the polls no list of aspirants; they restrict his entire freedom of choice in no way whatever.

In order to be elected, a candidate for admission to the assembly must have secured a majority of the votes cast. However, the number of ballots obtained must not be less than one-seventh of that obtained by dividing the total number of the electors in each class entered in the electoral list by the fixed number of members to be returned from each class.

It is interesting to note that in the Japanese municipal elections electors in each class vote separately. Article XXII of municipal law provides that electors of third class shall vote first; electors in second class second; electors in the first class last.

The political psychology of the Japanese voters presents more or less of a puzzle to the foreign student of politics. That the Japanese who possesses considerable natural impulsiveness should display calm in even hotly contested elections is a matter that seems to call for some comment. One who watches a Japanese municipal campaign can not fail to get the impression that the local elections do not even ruffle the surface of everyday life. The campaign is largely, if not entirely, conducted by private canvasses, but not by speech-making as in America. It is said that this general lack of interest shown by the voters is due partly to the comparative inefficiency of the local party organization, but largely to the fact that the voters are less interested in politics under the present system of government.

The power of the Japanese city assembly is very limited. The general powers granted to the assembly are purely advisory, the initiative resting with the higher authorities, and the assembly having nothing but the privilege of tendering its advice, which may or may not be accepted. The powers of the assembly as enumerated in the municipal law are as follows:

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The determination of the city budget as well as the approval of any outlay not included in the budget or of one exceeding the estimate; the giving of publicity to the annual accounts of receipts and expenditures; determining the modes of imposing and of collecting duties, fees, city taxes, and services in person or in kind, so far as they are not determined by laws or Imperial ordinances; alienation, purchase, exchange, or mortgaging of the immovable property of the city; matters relating to the disposition of the stock and property, etc., selection of the municipal executive.[25]

Throughout Japan, the system of municipal administration exhibits on a small scale the working of the political philosophy of our national government. Like the national constitution, the municipal law limits the direct authority of the electorate, providing various checks on and safeguards against the popular assembly. The functions and powers of the executive are placed far beyond the control of the representatives of the people. Just as the National House of Representatives and the prefectural or Fu assemblies lack legislative independence, so the city assemblies are mere auxiliary bodies. Their jurisdiction is restricted at every turn; first by the limitation of their deliberative powers, then by the institution of a permanent mayor and council, and finally by the strict control of the national government.

The doctrines of "popular responsibility," which is more or less realized under the political constitutions of all democratic countries where executive officers can be removed from office by the adverse vote of a representative assembly, or by the termination of a brief specified term of office, or by impeachment or recall, finds no place in the local government of Japan. The mayor and council, once chosen, are not only independent of the representatives of the people, namely the assembly, but are practically irremovable. Just as in relation to the national legislature the ministers stand outside the representative body of the people, the mayor and council, once chosen, are no longer

[25] Article LXVII

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subject to the assembly. The mayor, like the Ministers of State, has the right to attend all meetings of the assembly and to speak or to be heard at any time upon any subject within his jurisdiction.[26] Again, like the national cabinet, which can convoke a special session of the Diet, the municipal executive can call the assembly at any time he deems necessary.

There is, however, one sphere in which, in the municipal government as in the national, the popular assembly can exercise to a certain extent its legitimate power over the executive. This is in the sphere of finance. The assembly has the legal power to refuse by majority vote to approve the budget of the mayor, but it can not prevent the execution of any laws already enacted by refusing to approve the necessary appropriations. If these appropriations are not made by the assembly, the Fu or prefectural governor can include the necessary amount of such expenditures in the budget in order to carry out the laws or Imperial ordinances already upon the statute books. Moreover, the government, when it regards it as necessary, can impose any amount of expenditure upon the city without the consent of the assembly. Article CLXIII says: "When a city does not include in its budget an expenditure imposed upon it by law or ordinance, or one that has been ordered by duly constituted authorities, or when it does not approve or actually supply funds for an extraordinary expense, the Fu or prefectural governor may, upon the statement of his reason for so doing, embody the amount of such expenditure in the budget or order payment of the same."

The upshot of this provision is that under no conceivable circumstance can the assembly withhold the funds necessary to enable the city government to exercise its functions. When the budget fails to pass the assembly a certain amount of embarrassment may ensue, particularly if the city has some project to undertake. Even so, the difficulties may not be so great as might be expected, since every project can be carried out if the approval of the higher authority is secured.

[26] Article LI.

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The other organ of municipal government is the council. This body consists of a mayor and a number of members, some of whom are paid and some unpaid. The number of unpaid members of the council is fixed by municipal code.[27] The number of paid members is determined by the city ordinance subject to the approval of higher authority.[28] In general the total membership of the council is not very large. Tokyo, for example, with an assembly of seventy-five members, has eighteen members of the council, including a mayor, three deputy mayors and two professional administrators called shi-san-yo. However, these shi-san-yo do not participate in the deliberations of the council except when questions relating to their respective jurisdictions arise. In the smaller cities most of the members of the council are honorary or unpaid members.

All members of the council are appointed for terms of four years. The choice of honorary members of the council is made from within the assembly. In the case of paid members the council may select any one who is qualified for the position. However the choice of all paid members of the council must be confirmed by the higher authorities before it becomes valid.

The council like the German administrative board, the Magistrat, was an executive body, but under the revised law of 1911 it has lost its executive and administrative functions. It has become merely a deliberative and advisory body.[29] The duties of the council are set forth partly in the municipal code, partly in the detailed ordinances, and partly in instructions from the higher authorities. Article LXVII of Shisei [municipal law] confers the following powers: (1) To deliberate and decide those questions which are entrusted by the assembly to its legal sphere of jurisdiction; (2) to express its opinion on the subjects to be presented to the assembly by the mayor;

[27] The number of honorary members of the council is fixed at six except in the cities with special privilege. In such cities the number may be increased up to 12. See Articles LXV and LXVI.

[28] Article LXXIV.

[29] The main business of the council at present is the investigation and amplification of resolutions passed by assembly.

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(3) to decide all questions which come within its jurisdiction. The council also performs within certain limits judicial functions such as the settling of claims against the city when the amount does not exceed 1,000 yen.[30]

Though technically the council is the creature of the assembly by virtue of its appointment by that body, its action is independent. The council can perform in some cases all the functions of the assembly. Article XCI of the Municipal Law says: "Whenever the mayor has no time to convoke a meeting of the assembly or when an attendance of members of the assembly does not constitute one-half of its members, the mayor can present to the council any matter which is within the legal sphere of jurisdiction of the assembly.[31]

The meetings of the council, unlike those of the assembly, are not open to the public, and they are held more frequently than those of assembly. The mayor can call the council at any time. Upon the demand of half of the honorary members of the council he must do so. The attendance of the chairman (mayor) or his representative and at least one-half of the honorary members of the council is required for the validity of meeting.[32]

The most important personage in the municipal government is the mayor. He is the chief magistrate of the city. He governs the city and represents it.[33] His duties are twofold: those to be performed as an agent of national government, and those as the head of the community he represents. As to the former, he is responsible for the due execution of all national and prefectural laws and regulations and imperial ordinances incumbent on a commune. As to the latter he has to carry out the resolutions of the assembly and council.

As an agent of the national government the Japanese mayor, like his French counterpart, has an enormous power. He is entrusted with the enforcement of all national laws and

[30] *Tokyo Shi-Sei Gaiyo*, p. 15 (1913 Edition).
[31] Article LII.
[32] *Ibid*, LXX.
[33] Article LXXXVII.

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instructions within the limits of the city without concurrence on the part of the assembly or the council. He is also entrusted with police power. Article II of Shiho-keisatsu (Police Law) says that the mayor is required, under the direction of the prosecuting attorney of the province, to search out criminals within the commune. He is entrusted with the supervision of the civil register.

The system of the civil register involves the preparation and maintenance of a register of all the births, marriages and deaths that take place within the commune. The mayor is also entrusted with military duties, acting in this matter as an agent of the Minister of War at Tokyo. He prepares each year the list of persons liable to military service.

Another duty of the Japanese mayor as an agent of the national government is his responsibility for carrying out the national as well as the local election laws. He is responsible for the proper supervision of all matters connected with the preparation of the voters' lists to be used in the national, prefectural or Fu, and communal elections.[34]

As the head of the municipal administration, the mayor is the apex of the municipal government just as the Emperor is the apex of the national government. Article LXXXVII of the Municipal Law mentions the following matters as falling within the province of the executive: The preparation of subjects for deliberation in the assembly and in the council and the execution of resolutions of the assembly and the council; the administration of the city revenue; direction of receipts and payments fixed in the budget; the general supervision of the city property; supervision over the city officials and disciplinary authority over them; imposition and collection of fees and of taxes determined by law or by the assembly. In such capacities the mayor makes an elaborate annual report to the local authorities. He also makes practically all appointments of city officers although sometimes his choice is subject to the approval of the assembly or of a higher authority.

[34] See "Law of House" and also Shisei.

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As to the financial power, it is the duty of the Japanese mayor to see that the revenues of the city are properly collected. He makes an annual report to the assembly on the financial condition of the city. A copy of this report also goes to the higher authorities.

As the head of the commune, he is also entrusted, under a recent law, with the duty of looking after all highways within the municipality.

As chairman of the council the power of the mayor is enormous. Just as the council may refuse to pass such resolutions of the assembly as it believes to be illegal or improper, so it is the right and duty of the mayor to control the action of the council. If any decision of the council appears to exceed its authority or is prejudicial to public good, he may, upon his own judgment or under the instruction of the higher authorities, suspend the execution of the regulation of the council.[35] If the suspension of execution of its decision is due to the ruling of the prefectural or Fu council and the case involves existing laws or an Imperial ordinance, the council may appeal to the administrative court.[36]

The power of the mayor is further enlarged by the fact that he can act independently of the council in case of emergency. "When any question," reads the provision, "which belongs to the competency of the council requires immediate settlement, so that there is no time for convoking a meeting of the council, the mayor may decide it upon his own judgment and make a report thereon at the next sitting of the council.[37]

So important is the office of the Japanese mayor that appointment to such a position requires confirmation by the crown. Article LXXIII of the Municipal Law reads: "The mayor shall be appointed for four years. The Home Minister shall cause the assembly to make a list of names of three candidates, which he shall present to the crown, and ask the crown's pleasure in

[35] *Ibid.* The mayor is given similar power as to the assembly by Article XC.
[36] *Ibid.*
[37] Article XCI.

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regard to the selection of one of them." If he is unable to obtain the Imperial approval of any of them he shall cause the assembly to make another proposal of candidates. If he is still unable to obtain the Imperial approval he shall, until the city assembly presents proper candidates, either appoint a deputy *pro tempore* or despatch a government official to discharge the mayor's duties at the expense of the city.[38] The real power of this provision is in the hands of the Home Minister. The approval of the Emperor is merely nominal.

The municipal government of Japan, patterned as it is largely from the Prussian system, has been to a considerable extent a failure. This failure can be attributed mainly to too much partisan politics in municipalities.

Examination elsewhere showed the fact that the members of the assembly elected under the undemocratic three-class system have the power of recommending the candidates for mayor. And this recommendation of candidates, according to Mr. Ozaki, means practically appointment,[39] for thus far the Emperor has never refused to appoint the one who has received the highest number of votes among the three candidates recommended by the assembly.[40] This means that assemblymen have a large influence in the selection of a mayor. They will recommend and select only such a person as is likely to pursue their policy.

If the popularly elected members did not play politics among themselves, this power conferred upon the assembly might be beneficial instead of harmful, because it would act as a check upon the probable abuse of power by the executive. Although the mayor has supervisory power over the entire municipal administration for which he is responsible, it is said that he has not much independent power in practice either to appoint or to dismiss even minor municipal official without consulting the assembly.[41] This practice compels a mayor to

[38] Article CLXIV.

[39] Mr. Ozaki, conversation with the writer in New York, 1919.

[40] *Ibid.*

[41] *Nippon Oyobi Nippon Jin*, No. 748, January, 1919.

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carry on his administration less effectively and efficiently. There has been a tendency during recent years for subordinate officers to respect the members of the assembly rather than the mayor himself, since they are in no danger of losing their places when they are in harmony with the assemblymen. Consequently the honor of being mayor is less attractive to the able men of Japan than it is to the able men of such countries as England, America, and Germany.

It is reputed that when Mr. Okuda was elected mayor of Tokyo, he made a personal visit to each member of the assembly in order to ingratiate himself.[42] This clearly indicates the difficulties confronting any Japanese mayor in carrying on a successful administration. At present the municipal government of Tokyo is in the hands of a few politicians who control the parties. In 1919 the members of the assembly belonged to the following political parties: twenty-seven to Shiyu-kai; fifteen to Chuusei-kurabu; twenty-six to Kowa-kai; seven to Mushozoku.[43]

There exists in practically every large city in Japan a miniature Tammany Hall. Dr. Washio, describing the Tammany of Tokyo, says: "The assembly is at present a den of thieves controlled by the capitalists of the city, and the council elected by the assembly from among its own members is the nerve center of corruption and the most trying body for the mayor to deal with. They have long had the reputation of being the most subtle, crooked, and unscrupulous politicians. If the mayor happens to be a man of doubtful character, any sort of scandalous plan can be concocted by this body. And if he happens to be a clean man, he is sure to be subjected to all sorts of abuse and criticism.[44]

To appreciate further the magnitude of city politics and to show the real conditions of our municipal administration, let us illustrate as an example municipal politics in the city of Tokyo.

[42] *Nippon Oyobi Nippon Jin*, No. 748, January, 1919, p. 68.
[43] *Kokumin Nenkwan*, 1919, p. 491.
[44] *Tammany of Tokyo*, by Dr. Washio. *Japan Advertiser*, April 10, 1918.

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Prior to the appointment of Mr. Tajiri on April 5, 1918, the mayoralty office in Tokyo was vacant for eight months despite the fact that the authorities were earnestly seeking for a proper candidate. During this long period the city was without a mayor, and the municipal administration was carried on by the council. After eight months the city of Tokyo finally found a mayor in the person of Viscount Tajiri who was elected by the support of two factions of the assembly with a majority of seven votes over Mr. Abe. Viscount Tajiri was an able man with a bureaucratic career and a rigorous temper. The first objection to his qualification for the mayoralty office was that he was not flexible enough to work with the members of the council, with whom he had naturally to participate in the executive work. In other words, he was not acceptable to the interests of the council.[45]

"We wonder," says the *Yorodzu*, "if the municipal officials consider municipal administration a sort of gambling and the municipal assembly a market. They do not face municipal administration with conviction and principles; during the proceedings of the municipal assembly they may be only calculating their own interests."[46]

Commenting upon the difficult problem of selecting mayoralty candidates in the city of Tokyo, Dr. Washio remarks:

> The mayor is sought preferably from men with ministerial dignity. The assembly itself being a body of unscrupulous politicians of rather low type, its members have enough sense to know that there can never be found among themselves a man of sufficient dignity to be acceptable to the public as the mayor of this city [Tokyo]. And yet they want to control him in all practical questions of the city administration. This is an unusual situation. It can be remedied only by substitution of the system of direct election for the present system of indirect election which even iron-headed Bismarck condemned as an agency through which the dominant class revamps the popular will to suit its own interests.[47]

[45] *Yorodzu*, June 4, 1919, p. 1.
[46] *Ibid.*
[47] Dr. Washio, Tammany of Tokyo, *Japan Advertiser*, April 10, 1918.

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The restriction of suffrage makes it impossible for the people to control their own affairs. In limiting the right to vote on municipal problems, the lawmakers evidently proceeded, as in the case of the national government, upon the theory that the policy of a city with reference to the public utilities or what not should be controlled by its tax-payers. The justification for this provision is not apparent in the case of a city inasmuch as the burden of supporting the public service industries of a city is not borne by the tax-payers as such, but by the people generally. Such a system makes it possible for the tax-paying class to control public utilities in their own interest and to the disadvantage of the general public.

The resignation of Mayor Sakatani in 1917 as a result of his failure to effect a compromise with the council over the question of municipal ownership of electric companies in order to prevent unjust competition gives a side-light on the undercurrent of politics in the city.

The evils in administration are more easily traced in the city where we find a numerically small but very wealthy class and a large class owning little or no property. There the general political movement toward democracy has encountered the most obstinate resistance. At present only a small part of the population own land or capital enough to be allowed to participate in the municipal elections. The overwhelming majority of those who live in cities are employees and tenants. In the year 1913, the total franchise-holders under the tax-paying qualification of national direct tax of two yen a year were only 297,956 [48] out of a total population of 8,999,264 [49] in all the cities of Japan having a population over 30,000.

In 1917, the entire population of Tokyo was 2,349,830,[50] out of which only about 59,471 [51] persons were property owners paying a direct national tax of two yen a year.

[48] *Nippon Teikoku, No. 36, Tokei Nen Kwan* (Japan Statistics No. 36), Year 1918, p. 89 (Section Ryakusetsu).

[49] *Ibid*, p. 27.

[50] *Kokumin Nen Kwan*, 1919, p. 496.

[51] Statistics of year 1911—Year Book of Tokyo Municipal Government (*Tokyo Shisei Gaiyo*) issued by Tokyo City Government, 1913, p. 18.

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This property-owning minority class in the cities must be taken into account in any attempt to find an explanation of the reluctance on the part of the property-owning class to recognize the necessity of civic improvement in the way of hospitals, transportation lines, etc., since any improvement means additional taxation imposed on the property owners. Inequalities in the assessment of property for taxation are permitted to exist in favor of landlords.

Let us examine this point with more detail.

The total area of land in the city of Tokyo in 1918 was 23,468,000 *tsubo*, out of which 8,654,000 *tsubo* belonged to the national government; 1,245,000 to the city, and 13,567,000 to private persons.[52] In the same year, the total number of persons who participated in the ownership of these lands was 22,476.[53] The legal valuation of those private lands was estimated at 94,719,324[54] yen, that is, about 7.60 yen per *tsubo*. However, at present in no part of the city can land be found which can be bought at 7.60 yen per *tsubo*. The actual valuation of land at present in Tokyo is about eight times higher than the legal valuation which is made by the committees appointed from among the property-owners together with some government officials.

According to Professor Abe, the total land tax in the city of Tokyo in 1918 was 226,310.68 yen.[55] Therefore, if the assessment were to be made on the real valuation of the land, the revenue from the land would be eight times 226,310.68 yen or 1,810,485.44 yen—an increase of 1,600,000 yen which will be ample enough to better the present miserable municipal conditions.

A more undemocratic feature in connection with real estate in the city of Tokyo is that there is a large area of land which enjoys a special lower rate of taxation. This land is classified

[52] *Ibid*, p. 497.

[53] *Ibid*, p. 497.

[54] Professor Abe, Finance and improvement in the Greater Tokyo, *The Chugai Shinron*, May issue, p. 34.

[55] *Ibid*, p. 34. This amount of tax does not include national and prefectural taxes.

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as "rice field," "forest land," "farms" and "swampy land." The total area which enjoys this special taxation is 834,261 *tsubo*. The legal valuation of these different lands per *tsubo* is: rice fields, 14 sen;[56] farm land, 5 sen; forest land, 1 sen; field, .56 sen; swampy land, .22 sen.[57]

Another illustration of the unsatisfactions of a government in which property-owners are dominant is an astonishing lack of transportation facilities in Tokyo as well as in other cities. The *Mancho* gives the following statistics as to the number of street cars in the city of Tokyo during the last three years:

	1917	*1918*	*1919*
Average number of cars running a day	1,004	996	944
Number of passengers (average a day)	860,000	930,000	1,170,000[58]

The above figures show that the transportation system which is at present under municipal ownership is left unimproved.

Before leaving this subject, a word or two must be said of town and village governments. The form of government in towns and villages is similar to that in cities except that the council is absent in town [and village]. The chief differences between city and town governments are in the matter of the suffrage, and in respect to their legal relations with the central government. In the city the voters are divided into three classes; in the town they are divided into two. While the city is independent financially and politically and constitutes an independent urban county, the town and the village form parts of the districts in which they are situated. In other words, in the city, state supervision comes either from the prefect or from the Home Minister, but in the town and in the village it comes from a district authority.

In both city and town government, however, the main spring of all local actions comes from the Home Minister who is the original source of power. Administration is completely

[56] *Ibid*, p. 34.
[57] *Ibid*, p. 34.
[58] The *Mancho*, February 5, 1920.

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centralized. Just as the Emperor, in theory, is the apex of the national government, ruling by the divine right, so his deputy, the Minister of Interior, is the apex of the local government; through him and through his subordinates, the bureaucracy of our government is maintained in all parts of Japan.

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VITA

The writer of this dissertation was born January 7, 1889, at Tochiuda, Sodesaki-mura, Kitamurayama-gun, Yamagata-ken, Japan. He received the degree of A.B. from the University of Washington, Seattle, Washington, in 1917, and the degree of A.M. from Columbia University in 1918. He was in residence at Columbia University during the years 1917–1920, taking courses under Professors H. L. McBain, T. F. Powell, E. M. Sait, E. R. A. Seligman, W. A. Dunning and F. H. Giddings. During the same years he also attended the lectures of Dr. Charles A. Beard at the Bureau of Municipal Research.

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India's Parliament At Simla

A RÉSUMÉ OF WORK ACCOMPLISHED IN THE SIMLA SESSION, 1925

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India's Parliament at Simla.

Foreword.

The Legislative session at Simla began on the 20th August 1925 when the Council of State and the Legislative Assembly met in the Assembly Chamber. The attendance was as good as in any previous session. Owing to the forthcoming election of the President of the Legislative Assembly members had made a special point of coming up at the very commencement of the session. The programme of business which promised to be both heavy and interesting, must no doubt have afforded additional inducement to the members. The Council of State maintained its traditions, and it was in the fitness of things that on the termination of the life of the first Council, which had hitherto been characterised by goodwill and harmony between officials and non-officials who had tried to co-operate with each other to the best of their power, His Excellency the Viceroy should have come down personally to bid them farewell and to pay tribute to their work.

Viceroy's Inaugural address.

His Excellency the Viceroy delivered his inaugural address on the 20th August. His Excellency referred to his absence in England and expressed his special pleasure at meeting the Members of the Indian Legislature. He expressed his regret at the death of Mr. Montagu, Lord Curzon, Mr. C. R. Das, Sir Surendranath Banerjea, and the Maharaja Scindia of Gwalior. His Excellency also referred to the death of Khan Bahadur Shams-uz-Zoha and Sir Leslie Miller, and to the loss which the country and the empire had suffered in the sudden and tragic death of the late Commander-in-Chief, Lord Rawlinson. His Excellency extended a cordial welcome to Sir William Birdwood, the new Commander-in-Chief, who was the first holder of this office who at the same time had the exalted military rank of Field-Marshal. He expressed his Government's appreciation of the services which had been rendered not only to the Assembly but also to the Provincial Legislative Councils by the first President of the Legislative Assembly, Sir Frederick Whyte. "I am able to say," said His Excellency, "with confidence that Sir Frederick Whyte has discharged to the utmost the very heavy responsibilities laid upon him as first President of the Legislative Assembly, and I welcome this opportunity of tendering to him my thanks and the thanks of my Government for his very notable achievement."

Reviewing the affairs of India, His Excellency referred to the position of Indians in South Africa, and stated that his Government was watching the situation closely and was still in communication with the Government of South Africa. Dealing with internal affairs, His Excellency referred to the industrial depression, which, fortunately, had not been associated with any failure of Indian harvests. The depression appeared to be a phase of a world-wide movement which

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India could not expect to escape. Indeed it was fortunate that the change did not come to her so quickly or so severely as it had in many other countries; and owing to a succession of good harvests there had been a reserve of buying power in the country. "Nevertheless the process of adjustment is difficult and the condition of several of these industries will come before you. Public attention has recently been directed to the great cotton mill industry which after a period of unexampled prosperity and expansion is now experiencing a reaction. My Government has been watching the position closely, and I have consented to receive a deputation early next week from the millowners of Bombay and Ahmedabad. In the circumstances I will reserve any further observations." His Excellency referred to the four reports recently published by the Tariff Board, to their report dealing with steel, to the recommendations of the Coal Committee designed to rehabilitate Indian coal in overseas markets, and to the action which was contemplated. While giving due attention to industries, His Excellency said that his Government was determined, so far as circumstances would permit, not to neglect the interests of what was really the greatest of Indian industries, namely, agriculture. He knew from his discussions with the Secretary of State that his Government could rely upon his most cordial support of this policy. The direct responsibility of the Government of India for agricultural development in the provinces had ceased but in view of its paramount importance as the basic industry of the people of India, of the improbability of Provincial Governments being in a position to undertake research on the scale required, and of the necessity for co-ordinating activities in the wide field of agricultural development, the Central Government, His Excellency thought, must continue to play an important part in agricultural progress. "With the improvement this year in our finances we have been able to increase very considerably our activities in the sphere of agriculture. The Agricultural Institute at Pusa is expanding its work of research, which is the basis and condition of all progress. New varieties of crops have added within the past few years, crores of rupees to the wealth of the agriculturist, and these achievements point the way to still more wonderful possibilities....." In order to facilitate the co-ordination of provincial effort, the Government of India had "under consideration a proposal for the establishment of an all-India agricultural organisation which would help towards co-ordinating the activities of the various Provincial Departments of Agriculture, promote research, agricultural education, co-operation and other established aids to agriculture and serve as a medium for agricultural propaganda throughout the country." With the object of obtaining the views of representative and responsible authorities, a definite scheme had been formulated and it had been decided to refer this proposal to the Board of Agriculture at its next meeting at Pusa in December. His Excellency hoped that in addition to the regular Provincial representatives, Ministers of Agriculture of the various provinces would also be able to attend on this important occasion. Turning to the action taken on the report of the Civil Justice Committee, His Excellency remarked that many of the recommendations could be put into effect by Local Governments, the High Courts and the presiding officers of the Courts of Justice. In some cases Government had decided to reduce the proposals of the Committee to the concrete form of Bills which would

NAVAJIVAN TRUST, AHMEDABAD

come up during the session. In others they had addressed Local Governments and High Courts and would prepare Bills after they had received their opinions. His Excellency expressed his high appreciation of the work which had been performed by the Chairman and the Members of the Committee and by the co-opted members, non-official as well as official.

His Excellency next referred to the Report of the Economic Inquiry Committee on the material which existed for holding an inquiry into the economic conditions of the people of India, the feasibility of instituting an inquiry of this character, and the manner in which it could be carried out. The report had just been completed, and Government intended to publish it at an early date and to examine the recommendations without delay. His Excellency expressed his appreciation of the expedition with which the Committee had dealt with this complicated subject.

With the return of sterling to a parity with gold, one of the most important conditions requisite for a fruitful re-examination of the problems of currency and exchange had been fulfilled, and His Excellency announced that His Majesty the King had approved the appointment of a Royal Commission on Indian Currency "to examine and report on the Indian exchange and currency system and practice; to consider whether any modifications are desirable in the interests of India, and to make recommendations." The Right Honourable Hilton Young would act as Chairman, and Professor J. C. Coyajee, Sir Maneckji Dadabhoy, Sir Reginald Mant, Sir Rajendra Nath Mukherji, Sir Alexander Murray, Mr. W. E. Preston, Sir Henry Strakosch, Sir Purshotamdas Thakurdas, and Sir Norcot Warren would be the members, with Mr. A. V. V. Aiyar of the Indian Finance Department and Mr. Baxter of the India Office as Joint Secretaries. His Excellency next referred to the Committee, known as the Indian Sandhurst Committee, which had been appointed to investigate "not only the whole subject of the best and most suitable means of training Indians to hold worthily and efficiently His Majesty's Commission, but also the question of what measures should be adopted in order to attract the best type of Indian youth, in greater numbers than are at present forthcoming, to a military career." His Excellency attached great importance to the enterprise upon which the Committee was embarking, and if they proved successful, they would, to the extent of their achievement, help India forward in the path of progress. "The Committee is widely representative of different branches of Indian opinion, and I am glad to note that in this important inquiry we shall have the assistance of the leader of the Swaraj Party. I must express gratification that he is prepared to contribute to the elucidation of the problems involved, but I should not think of seeking to press the implication of his action further than he himself wished." The establishment of a Public Service Commission was being actively pursued in correspondence with the Secretary of State, and His Excellency hoped that it would shortly be possible to make an announcement outlining its functions, its constitution and its personnel. "I believe," said His Excellency, "that it will confirm for the Services that sense of security in the conscientious discharge of their duties to which they are justly entitled, and that it will provide an independent and impartial tribunal

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for the examination of grievances. I believe also that it will be a visible and concrete guarantee of the principle, on which all good Government is founded, that the ultimate object of administration is the interest of the State and the service of the public." On the situation relating to the religious endowments of the Sikh community and the various issues connected with it, His Excellency expressed his great gratification at finding that the hope of improvement in that situation had been realized or was on a fair way to be realized. "During the whole course of the events and controversies which have engaged public attention, and sometimes, I regret to say, disturbed, the public peace in the Punjab, the Government of the Punjab and my own Government have been animated by a constant and single desire to promote by every means in our power a stable, an equitable and a friendly settlement of all the matters in issue, which shall do justice to the claims of all the interests legitimately concerned and which, in particular, shall restore the traditional relations of good understanding and mutual confidence between Government and the Sikh community. It is my belief that those relations, glorious in war and 'no less renowned' in peace, whatever misunderstandings have arisen and whatever unfortunate incidents have occurred, have never in truth suffered more than a partial and temporary disturbance, and I welcome every prospect of their complete renewal and consolidation. A measure regulating the management of Sikh religious endowments had been enacted by the Punjab Legislative Council and had received such large and overwhelming support from the interests directly or indirectly concerned as to leave no doubt regarding its general acceptance. The Government of the Punjab had made a generous offer to those who were under detention in the province for certain offences arising out of the agitation, and His Excellency trusted that wise counsels would prevail in regard to it. "I count," said His Excellency, "as one of the palpable signs of a hopeful and auspicious future, the recent conclusion, with the cooperation and assistance in the necessary arrangements of the authorities of the Nabha State, of the ceremonial reading of the Sikh scriptures at the Gangsar Gurdwara in that State. The policy scrupulously observed by Government has been to interpose no obstacle, there or elsewhere, to the free observance of religious ceremonies in such manner as not to conflict with other well-established rights and liberties. I will say no more on a subject which might revive old controversies than that I have every hope and confidence that, with the conclusion of the ceremony I have referred to and the release of persons detained in the Nabha State, we may all now unite to treat this incident as a closed chapter." A bill validating such of the provisions of the Punjab Act as were beyond the competence of the local legislature would be introduced during the present legislative session, and His Excellency expressed his confidence that a measure which offered so fair a prospect of a practical and equitable settlement of a momentous and complex issue and had been supported by so weighty a body of public opinion would receive also the ratification and endorsement of the Central Legislature. "I trust that your deliberations will complete a legislative act which will not only afford a just and satisfactory solution of the matters it expressly contemplates, but will also contribute powerfully to the re-union and reconciliation of diverse aims in other spheres of interests which we all have equally at heart. If we persevere and re-

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double our efforts in the path of mutual forbearance and understanding, I have every confidence that the future will crown our labours."

His Excellency referred to the many conferences and discussions he had had with the Secretary of State during his stay in England and also to the great advantage of representing the situation in India, as His Excellency conceived it, to the Prime Minister and the Cabinet. Towards the end of His Excellency's visit the Secretary of State had made an important pronouncement in the House of Lords, where he had been careful to state that he was not announcing or purporting to announce decisions or conclusions. Nevertheless, it could not be doubted that his survey of the situation formed an important event in the history of political development in India. "It showed," said His Excellency, "as it appeared to me, a growing appreciation and a sympathetic understanding of the complexities and difficulties of Indian political problems. You will have gathered from the Parliamentary reports that the general lines of the pronouncement were not seriously challenged in the British Parliament." His Excellency trusted that he was not too optimistic in his belief that a temperate examination of the problems in an atmosphere free from suspicion and prejudice might lead to a more earnest and sincere co-operation and good-will from Indian politicians. "I cannot hope," said His Excellency, "to convince all sections of those who take an interest in public affairs. But if we are to advance towards a solution of our problems, we must get rid of the elements of bitterness and suspicion, which breed their evil progeny, alas! too rapidly, and try whether the spirit of good-will may not prove a solvent for difficulties which have hitherto seemed to defy solution.

"I would ask those who may differ from me to bend their minds for a moment towards me, and to weigh observations based upon the experience of a life-time and applied to Indian affairs by one who claims to be devoted to India and her interests.

"I came to India charged with the duty of helping to establish the Reformed Constitution and of assisting the country along the road of advance mapped out in the declaration of August 1917. The first great measure in pursuance of the new policy had been embodied in an Act of Parliament. It was unfortunate that this new system was launched at a period when the atmosphere was charged with bitterness and animosity. It is unnecessary to recapitulate the difficulties it encountered from the moment of its birth. They are still fresh in our minds. It suffices for the moment to recall that it met with determined opposition from certain sections of the community, directed at first from without the Councils and latterly also from within. Remember that this was a newly-fashioned Constitution—indeed a constitutional experiment without precedent—designed to meet the peculiar complexities of the situation in India. It had no doubt its imperfections, but it was the product of deep thought and the outcome of a genuine desire on the part of the British Parliament to give effect to the patriotic aspirations of Indian political leaders and to initiate a system of self-governing institutions. Much of the criticism directed against the Constitution was clearly in the nature of a protest against the refusal to grant complete self-government at one step. But the ranks of the critics were also swelled by those who argued that the system did not fulfil the intentions of its authors and suffered from

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obvious defects which should be removed. These charges deserved examination, and after three years' experience of the new Constitution my Government, with the approval of His Majesty's Government, decided that inquiry should be made not with a view to altering the structure, but for the purpose of determining whther any measures could be devised whereby the system might work more smoothly and efficiently. These problems were examined by the Reforms Inquiry Committee, to whose labours both my Government and all those who are interested in the working of the Constitution owe a debt of gratitude."

His Excellency regretted that the Committee had not been able to come to unanimous conclusions. "The majority have made a series of recommendations" said His Excellency, "which taken broadly appear to be acknowledged as suggesting improvements on the existing practice. They are fashioned with a genuine desire to improve the present machinery. I do not of course claim for them infallibility or deny that they must be examined in detail with some care. My Government are prepared to accept in substance the view of the majority that the Constitution should be maintained and amended, where necessary, in order to remove defects in its working on the lines recommended by them." The Government could not, however, at present commit themselves to all the individual recommendations or to the form or method by which they should be carried into effect, inasmuch as there had not been sufficient time for full consideration of them with the authorities concerned or even by His Excellency with his Council. An opportunity would be afforded to the Legislature for debating the policy, before final conclusions were reached, and every consideration would be given to the views presented to Government. The minority had stated that they had no objection to many of the proposals of their colleagues, but they were unable to accept the report of the majority because they desired to progress more rapidly and by different methods. In their opinion, no substantial results would be produced by the process of amendment of defects recommended by the majority. "Briefly," said His Excellency, "the minority ask whether the Constitution should not be put on a permanent basis with provision for automatic progress in the future, and they are in favour of a system of Provincial autonomy. They press for an early enquiry with a view to fulfilling these aspirations..... In effect, the recommendations of the minority amount to a demand for an early and authoritative inquiry with a view to a revision of the Constitution. The issue at the moment between them and the Government of India is largely one of time for the appointment of a Commission." "I understand their impatience," continued His Excellency, "but my Government and I, after most carefully weighing their views, have reached the conclusion that the moment for an inquiry has not yet arrived." His Excellency believed that the present moment was especially favourable for a combined effort to work the Constitution. The period of financial stringency seemed to be passing away, a notable beginning in the remission of provincial contributions had been made, and His Excellency trusted that these new resources would strengthen the position of Ministers. Another change of importance had been made in the proposals of the Lee Commission. It had been one of the complaints of Ministers that the organization of their superior services through which their Departments were administered lay not in their hands but in those of the Secretary of State. Steps were

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being taken to give effect in this respect to the principles laid down by the Joint Select Committee of Parliament that Ministers should have the fullest opportunity of managing that field of government which was entrusted to their care. Recruitment by the Secretary of State for the Indian Educational Service, the Indian Agricultural Service, the Indian Veterinary Service, the Buildings and Roads Branch of the Indian Service of Engineers and in Bombay and Burma for the Indian Forest Serivce had ceased, and in these branches of the administration Ministers would be authorised to start building up by new recruitment their own Provincial Services, subject only to such restrictions as experience showed to be necessary for safe-guarding the integrity, the independence and the efficiency of Public Services. The problem of the Indian Medical Service was more difficult, but here too the principle of establishing Provincial Medical Services had been accepted subject to certain conditions which were under consideration. In any event His Excellency thought that it was too early to pronounce a final verdict as to the failure or success of Dyarchy, His Excellency himself having come to the conclusion that " Dyarchy, whatever its deficiencies may be, has so far proved more successful in its operations than some of its friends and most of its critics could have expected. We shall be in a far better position and in a comparatively short time to form a final judgment, if the system is worked in the future with general goodwill and co-operation."

His Excellency referred to Lord Birkenhead's speech where he had " disclaimed on behalf of the British Parliament any monopoly in the art of framing Constitutions and where he had invited Indians to produce a Constitution which ' carries behind it a fair measure of general agreement among the great peoples of India,' and had given an assurance that such a contribution would be most carefully examined by the Government of India, by the Secretary of State himself and by the Commission whenever that body might be assembled. " The time which may elapse before re-examination of the Constitution," said His Excellency, " whenever that may happen, could not be better occupied by public men in India than by devoting serious practical thought to these problems..... We are not wedded to our own particular methods of attaining our object. Whatever may be proposed will be the subject of most careful examination by the Government of India, and eventually by the Commission before it is submitted to the British Parliament. The Commission should know whether there is any general consensus of opinion among the various classes and communities of India as to the direction in which the development of self-government within the Empire should be sought. Should we persevere in our proposed course or is there an alternative line of advance which would be more in accordance with Indian ideas and would receive the support of the numerous interests concerned? If any alternative methods are to be suggested, much hard thinking is required. Constitutional problems are not solved by a phrase. Account must be taken of unparalleled complexities—diversities of race, diversities of religion, striking diversities of intellectual development and a social organisation which separates classes with a rigidity unknown in any other great country. It must be kept steadily in mind that it is a primary duty of Government to provide security against external aggression and to preserve peace and order within its territories, and in India it is imperative that adequate means should be devised for

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the protection of minorities. No greater problem in self-government has ever been set before a people. No problem has ever more assuredly required accurate and practical thinking.

"There are many in India at the present moment who hold the solution lies in Provincial autonomy. The principle that local affairs should be administered by Local Governments is one that commands general acceptance. But if we are to avoid disintegration—a danger that the history of India constantly emphasises—there must, in my judgment, be a strong Central Government capable of exercising a legitimate degree of supervision and control. The relations of such a Government to a number of so-called autonomous Provincial Governments have not yet been thought out. It can scarcely be contemplated even by the most ardent friends of Provincial autonomy that there should be nine or more, and as some contend many more, separate and independent Provincial Governments entirely free in all directions from supervision and control. Before any scheme of Provincial autonomy could be established, the functions that should be entrusted to them and the degree of supervision and control to be exercised over them must be explored with patience. Here is an unlimited field of work waiting for those who, like the minority of the Reforms Inquiry Committee, believe that the present Constitution must be radically amended. Meantime close contact with the practical working of the present machine will provide a useful corrective against too great an obsession with theory, which history shows to be a danger ever lurking in wait for the drafter of Constitutions."

Concluding his speech, His Excellency said: I would draw attention to an attitude not uncommon among politicians that the programme and conditions of advance laid down in the preamble of the Government of India Act are a humiliation to India in that the prescription of successive stages and the testing of each stage by results is a reflection on the capacity of Indians. Be it remembered that we are engaged on a problem new to India and new also to the British Parliament. I think the nature of the problem as it presents itself to the British people is not fully appreciated by those who express themselves as humiliated. They assume that the path to self-government lies along a broad metalled road, and that if they could only be freed from the impediments and restrictions imposed by the present form of government, they could run safely, rapidly and directly to their goal. To my mind the problem presents itself under a different figure. I think rather of a man picking his way through unexplored regions towards his destination which glimmers faint, but clear in the distance. He halts on firm ground and seeks the next spot to which he can safely entrust himself. A rash step may engulf him or delay his progress indefinitely. His advance may not be rapid, but it is well and surely planned. As he advances, experience teaches him to distinguish more certainly and quickly the firm ground from the treacherous surface. And so he wins to his ultimate goal.

"Gentlemen, if I may strike a personal note, the natural term of my period of office is rapidly approaching, and my future opportunities of addressing you, the Members of the Indian Legislature, must necessarily be few. I have spoken to you to-day from the conviction of my heart—I trust without rousing a tinge of bitterness or animosity. I have expressed to you the thoughts of one who, whatever mistakes or errors he may have

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committed, has a warm affection for India and a deep devotion to her interests. For these reasons I have been desirous of carrying you with me along the only avenue which, in my judgment, can lead to the Promised Land—to the proud heights of India's destination. It is my earnest prayer that India, with the co-operation of all of us—of every race, community and interest—that wish her well, may avoid the pitfalls that beset her path and win through to the goal to which her face is set."

Questions and Answers.

Questions and Answers.

Excluding those of which private notice was given, 999 starred and 191 unstarred questions were put and answered in the Legislative Assembly, and 145 questions were answered in the Council of State. There were days when the full hour allotted to Questions did not suffice to exhaust the list, and here were also occasions when Questions took up only a few minutes. Government does not hesitate to give information whenever, consistently with public interest and other considerations, it can do so. There was no evidence of dissatisfaction on this account on non-official benches even though sometimes government had to decline to answer certain questions on the ground that the time, labour and cost involved in collecting the information required was not commensurate with the end its publication would serve.

The subjects of interpellation during the Simla session were not very different from those of former sessions. The increasing association of Indians in the public services, the representation of Muhammadans, Sikhs and minority communities in various Government services, the grievances of individual officers, and the position of Indian students in foreign countries engaged the attention of the Legislature. Questions were also directed towards currency, securities, the protection and development of industries, cinemas, railways and the air route to England. The position of Indians abroad did not by any means play an unimportant part. The crisis in the cotton mill industry was responsible for some interpellations; and the adoption of a rupee tender for purchases by the Indian Stores Department and purchases by the Army Department continued to elicit inquiries. Super-tax and Income-tax offered another field. The British Empire Exhibition, in which the Legislature had previously taken an interest, did not escape its attention; and there was no falling off in the keeness which has always been shown in questions relating to the constitution.

Current Topics.

Mention has already been made of the reference His Excellency the Viceroy had made to the Members of the Central Legislature who had recently died. References were also made by members to the deaths of Lord Rawlinson, Sir Surendranath Banerjea, and Mr. C. R. Das; tributes were paid from all quarters to the services they had rendered; and regret was warmly expressd at the loss their demise entailed.

Farewell to Sir Frederick Whyte.

On the 22nd August the election of the non-official President was held. Mr. V. J. Patel and Diwan Bahadur T. Rangachariar were the two candidates. By 58 votes against 56 Mr. Patel was declared to have been elected. On the 24th August 1925 a message was read from His Ex-

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cellency the Viceroy and Governor General approving the election of Mr. Patel. Then followed interesting speeches of farewell to Sir Frederick Whyte and of welcome to the new President. Sir Alexander Muddiman on behalf of the official Benches expressed regret at Sir Frederick leaving the Assembly and offered their best wishes and hopes for his future prosperity and success. The Home Member remarked that Sir Frederick had truly laid the foundations of procedure on which, he trusted, succeeding Presidents would develop what in the end would be a magnificent superstructure. He testified to the absolute impartiality and complete fairness with which Sir Frederick had exercised the powers of control and paid a tribute to the manner in which those powers had been exercised. On behalf of the Swaraj party, Pandit Motilal Nehru referred to the very high standard which Sir Frederick had set and remarked that he had discharged his duties "with conspicuous ability, becoming dignity, and unfailing courtesy and fairness." Mr. Jinnah said that Sir Frederick had "displayed a sound sense of judgment, a great presence of mind, quick decision, and always the best of intentions to arrive at the fairest and most impartial decision." On behalf of non-official Europeans Sir Darcy Lindsay expressed regret at the loss of their "guide, philosopher and friend," and said that were it not for the fact that the rules required that they should elect their new President from amongst themselves, and any departure from the intention of that rule might have been misunderstood, Sir Frederick's friends in the House would have liked to pay him the compliment of asking him to accept the Chair until the end of the present Assembly. Diwan Bahadur T. Rangachariar said that if the Government was proud of the incoming President, it was prouder of Sir Frederick Whyte, who as the first President had made his mark and had made the whole world take an abiding interest in the way in which they were progressing. In the course of his reply Sir Frederick Whyte said that he was a debtor to the Assembly for many things, for their unfailing co-operation with the Chair, for their cheerful acceptance of his rulings and for their great forbearance, and the Assembly had now added a new account to his debt by the manner of its farewell.

Welcome to New President.

In the election of the new President a landmark had been reached in the Government of India Act, and the occasion was historic. In welcoming the elected President, Sir Alexander Muddiman as Leader of the House assured him of the support which he said "it is your right to expect and it will be my duty to accord. You have been called to a great office with great responsibilities, and we have a confident hope that you will discharge them greatly. I trust that the relations that have existed between the Chair and the House during the tenure of office of your distinguished predecessor will continue." Pandit Motilal Nehru accorded a most hearty welcome, and said that Mr. Patel had filled them with high hopes of expectation which he would worthily fulfil. Mr. Jinnah hoped that Mr. Patel would try his utmost to fulfil the expectations of his friends. Sir Henry Stanyon said that by his election Mr. Patel had become detached from his political adherents and private political friends, he was now at one and the same moment the ruler of procedure in the House and the bondslave of the conventions which surrounded and sustained the Chair. As a Member of the House

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and as his Deputy, Mr. Rangachariar promised Mr. Patel his hearty co-operation in the discharge of his duties. Mr. Patel thanked the Assembly for having elected him and assured the Members that he had accepted the office with high hopes and with a full realization of the implications involved in it. He appealed for co-operation and assured the House that he was in every sense of the term ready to extend his co-operation. "In the discharge of my duties, I shall, I assure you," said Mr. Patel, "observe strict impartiality in dealing with all sections of the House irrespective of party considerations. From this moment, I cease to be a party man. I belong to no party. I belong to all parties."

Motion for adjournment.

In the issues dealing with preceding sessions under Current Topics have always been grouped motions for adjournment. There was only one such motion during the session, when on the 25th August Mr. Jinnah asked for leave to move the adjournment of the business of the Assembly to discuss a definite matter of urgent public importance, namely the composition of the Currency Commission. In moving his motion Mr. Jinnah referred to Mr. Venkatapati Raju's Resolution, which had been carried during the Delhi session recommending that a Committee with a majority of Indian non-officials on it and with an Indian Chairman be immediately appointed to examine the whole question of exchange and currency. He said that Sir Basil Blackett had objected to the terms of the Resolution but had agreed that there should be an effecitve and adequate representation of Indian interests on the Committee. Mr. Jinnah remarked that both the public and the press were dissatisfied with the composition of the Commission and considered that Indian interests would not be adequately and effectively represented on it. Mr. Jamnadas Mehta complained that the Government had defied the Resolution of the Assembly, that the six European gentlemen did not command the confidence of the Indian public, and of the Indian members, excepting Sir Purshotamdas Thakurdas, not one had succeeded in any Local Board election much less in any election for the Legislative Assembly. Mr. D. P. Sinha complained that the largest interest in the country, namely, agriculture, was unrepresented on the constitution of the Commission. Mr. Venkatapati Raju stated that there were six conflicting interests—equity between debtor and creditor, equity between the taxpayer and the Government, and equity between the exporting merchant and the importing merchant, and inquired which interest Sir Basil thought would be represented by the gentlemen on the Commission. Sir Basil Blackett, replying to the debate, said that the arguments which had been advanced were mutually destructive, and every one of those who had spoken would have spoken against the personnel of a Committee appointed by anyone of the other five. He protested against the manner in which the debate had taken the form of a discussion of the merits of the ten gentlemen who were on the Commission. "I do put it to this House that it is not doing justice to itself and it is making a very bad impression on the world in general if the immediate effect of the appointment of Indians with knowledge of the subject to a Commission is that their qualifications and qualities are belittled in this House." Referring to the Resolution passed during the Delhi Session, the Finance Member recalled what he had said and observed that though he had then hoped that the Committee would be appointed within twelve months, it had been appointed in just

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seven months, and that the terms of reference were so wide that no one had objected to them. As to what interests the ten members represented; the Finance Member said:—"I state quite confidently that they have been chosen to represent one interest only and that is the true interest of India taken as a whole; that is the only matter that is under consideration—the interests of India . . . There are ten gentlemen and they are likely to be very adequate and effective in representing Indian interests." The Finance Member said that he had given a definite undertaking that the Government would see to it that there was adequate and effective Indian representation and he asserted that that undertaking had been fulfilled. Proceeding, he said:—"Essentially what you want is a set of gentlemen who are thoroughly impartial, who have not, so far as possible, committed themselves in advance to particular views, who have a wide knowledge of Indian conditions as well as of financial conditions and who are capable of arriving at an unprejudiced and unbiassed judgment after listening to the evidence on the subject matter of their terms of reference . . . . It is a very big task requiring very expert and very wide knowledge, and it does not require the representation of this industry, that industry, labour, capital, debtor, creditor or taxpaper or Government." He advised the House not to pass a derogatory motion in regard to the Commission before it came out. Pandit Madan Mohan Malaviya regretted that criticisms had been passed upon some members of the Commission and contended that the main suggestion of the discussion was not that the members who had been appointed should be cashiered but that a few additions should be made. Pandit Motilal Nehru said that the reason why these ten gentlemen, European or Indian, had been appointed was that they had the courage of differing from the views of the public in India, and he criticised the Finance Member's attitude as disclosing that he believed that the true representatives of Indian interests were not Indians but Europeans. Sir Alexander Muddiman asked the House to bear in mind that men of great reputation and standing would not take part or care to serve on any Commission relating to India if they were to be charged with lack of impartiality or with having made up their minds before they took part in those Commissions. Mr. Jinnah agreed that personal attacks on individual members of the Commission were not right and asked the House to vote on one issue only, namely, that Indian interests were not adequately and effectively represented on the Commission. Sir Basil Blackett remarked that whereas in 1913 and 1918 only one Indian had been appointed, on the present Commission there were four Indians and an Indian Secretary, which, he thought, was considerable Indianization. He said that the direct effect of the vote would be a vote of censure on the four gentlemen who had been appointed to the Commission. He appealed to the House to content itself with the discussion in which a considerable number of Members had expressed their opinions and to withdraw the motion. The motion was, however, pressed to a division and carried by 64 votes against 45.

Resolutions.

Previous Sessions have shown the anxiety of the Indian Legislature with regard to its constitutional position and powers and it was only natural that the most important resolutions of the last Session, were those

connected with the Report of the Reforms Inquiry Committee. The main resolution on this subject was moved by Sir Alexander Muddiman in the Legislative Assembly on the 7th September 1925 and by Mr. Crerar in the Council of State on the 11th September 1925 in the following terms:—

"This Assembly recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

Reforms Inquiry Committee Report in the Assembly.

In referring to the history of the appointment of the Reforms Inquiry Committee the Home Member turned to the terms of reference and said that while the first part—the scope of the inquiry into the defects—was wide, the second part dealing with the suggestion of remedies was definitely restricted. The restriction gave the answer to the criticism that the Committee had not made wider recommendations. Sir Alexander referred to the difficulties of such an inquiry and particularly to the fact that many of those engaged in working the reforms were still occupying the offices to which they had first been appointed. . . . . "The real difference in a few words between the report of the majority and the report of the minority" said the Home Member "is that the majority say that the existing constitution is capable of amendment and should be amended in the way that the report suggests. The minority report, while not hostile to many of the recommendations and perhaps even favourable to a few, takes the line that the present constitutional machinery needs structural changes beyond the scope of any remedy within the terms of reference." The Home Member asked the House to accept the policy of improving the existing constitution and to consider the recommendations which had in this behalf been made. "I cannot commit the Government of India to any particular individual recommendations, but I do say and I do ask the House to agree with me that these are valuable recommendations which need consideration as likely to lead to improvements which practical men ought seriously to consider." Proceeding the Home Member said that it had been urged that the recommendations would satisfy no one, that the machine had been a failure and would not work, that seeing that the Commission had to come it was no use dealing piece-meal with this large question; but he refused to subscribe to these views. The machinery was neither simple nor uncomplicated and it was only by trial that it could be noticed as to where it ran hot. Dealing further with the difference between the minority and the majority reports, the Home Member referred to the end of the former report where the minority had asked for a Royal Commission and said that the issue was one of time. Sir Alexander relied on His Excellency the Viceroy's speech where he had said that if based on the material now available, the results of the inquiry could only lead to disappointment; and he strongly emphasised how especially qualified his Excellency was to give the opinion and further that he was in a peculiarly good position to estimate and judge current events and probabilities in the political world because he had only recently returned from England where he had met the representatives of all political parties. The Home Member next referred to the Preamble to the Government of India Act which contained the general scheme of reform and said that it did not

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envisage automatic but gradual progress. He also referred to section 84A of the Act under which the Statutory inquiry must take place not later than 1929; and quoted from the speech of the Secretary of State to show that the door was still open, but he added it was not open to menace or to violence. The Commission might be appointed earlier than 1929, that could only be on the conditions laid down by the Secretary of State. If it was appointed, the Home Member inquired, what would the Commission do? It would have to consider, *inter alia*, the past working of the Act and an account of their stewardship would have to be given both by those who had worked the reforms and those who had not. From the first Assembly and the first Council of State a large and important body of educated opinion had stood aside. They had entered the second Assembly, but the first Legislative Assembly had not had the assistance of those who were now present. The experience of the second Legislature was still developing. What opinion would the Commission form on the facts and events available? "The question of the date of the appointment of the Commission has never seemed to me personally" observed the Home Member "of great importance. I have always thought that great and unnecessary attention has been directed to that point. What is really important is what you will lay before the Commission when it is appointed. You do not want a Commission to come out when you have nothing to lay before it. When the talents are demanded of you, what answer will you give? . . . . . Nearly six years have passed and our proceedings have been written down. Do we wish the next years to pass in the same way? Are we to remain estranged and attempt to deal with this problem—a problem the greatest which has ever presented itself to the human race, for you are building a constitution not for a nation but for a Continent—can we afford to stand aside, can we afford to remain, as I sometimes feel we are remaining, on the one hand a party trying to storm a fortress, on the other hand persons defending that fortress as if their lives depended upon it? Sir, that is not the way in which constitutional progress and constitutional reform can be effected." His Excellency the Viceroy had made an eloquent appeal for co-operation; the Secretary of State had indicated that constitutional progress might be accelerated on condition that there was everywhere among responsible leaders of Indian thought evidence of a sincere and genuine desire to co-operate in making the best of the existing constitution. That, Sir Alexander Muddiman claimed, was the essence of his resolution.

Pandit Motilal Nehru moved the following amendment:—

"That for the original Resolution the following be substituted:

'This Assembly while confirming and reiterating the demand contained in the Resolution passed by it on the 18th February 1924, recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India:

(*a*) The Revenues of India and all property vested in or arising or accruing from property or rights vested in His Majesty under the Government of India Act, 1858, or the present Act or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor General in Council for the purposes of the Government of India.

(*b*) The Governor General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the Revenues of India and make such grants and

appropriations of any part of those Revenues or of any other property as is at present under the control or disposal of the Secretary of State for India in Council, save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India:

(*i*) Expenditure on the Military Services up to a fixed limit.

(*ii*) Expenditure classed as political and foreign.

(*iii*) The payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India.

(*c*) The Council of the Secretary of State for India shall be abolished and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the self-governing Dominions save as otherwise provided in clause (*b*).

(*d*) The Indian Army shall be nationalised within a reasonably short and definite period of time and Indians shall be admitted for service in all arms of defence and for that purpose, the Governor General and the Commander-in-Chief shall be assisted by a Minister responsible to the Assembly.

(*e*) The Central and Provincial Legislatures shall consist entirely of members elected by constituencies formed on as wide a franchise as possible.

(*f*) The principle of responsibility to the Legislature shall be introduced in all branches of the administration of the Central Government subject to traditional reservations and residuary powers in the Governor General in respect of the control of Military and Foreign and Political affairs for a fixed term of years:

Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as 'Defence' shall be submitted to the vote of the Legislature; but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed.

(*g*) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments subject to the general control and residuary powers of the Central Government in inter-provincial and all-India matters.

(*h*) The Indian Legislature shall, after the expiry of the fixed term of years referred to in clauses (*b*) and (*f*), have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable.

This Assembly further recommends to the Governor General in Council that necessary steps be taken:

(*a*) to constitute in consultation with the Legislative Assembly a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo-Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf;

(*b*) to place the said scheme for approval before the Legislative Assembly and submit the same to the British Parliament to be embodied in a Statute'."

In moving his amendment Mr. Nehru said that the Home Member's resolution contained recommendations involving some of the most controversial questions which were agitating the public mind. "What we are trying to do is to find a place in the sun for ourselves" said Mr. Nehru. "If we are to have it, we shall need no recommendation from you for the things which will be ours. If we are not to have it, your recommendations will not carry us far and we can do without them. The most important part is the principle." Dealing with the first part of the resolution Mr. Nehru said that he had failed to discover any principle under-

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lying it. Something could be done under the Government of India Act and that something was contained in the recommendations, but it would neither meet their requirements nor was it worth having. The principle, Mr. Nehru inferred from the recommendations, was "Give as little as you can and make sure that in that little you give, the power and prestige of the bureaucracy is not in the least jeapordised." Neither Dyarchy with responsibility in the Central Government, nor Dyarchy in the provinces had succeeded. In its concluding Chapter the Montagu-Chelmsford Report had recognised that the scheme was charged with the potentiality of friction, but it had expressed the hope that it would work smoothly. Mr. Nehru denied that Dyarchy was a new experiment because, he said, it had been tried in Canada and had failed. The results in India had been the same. He criticised the manner in which, he said, the majority report had got over the overwhelming evidence which witnesses had given of the failure of Dyarchy. Instead of giving a clear pronouncement that Dyarchy had not succeeded, the Committee had indulged in a quibble. The minority, Mr. Nehru observed, had been clearer and more precise in saying that the present system had failed; and Mr. Nehru could not understand how a hybrid system introduced by speculative constitutionalists could have resulted otherwise. He next quoted from the Secretary of State who, he tried to show, was also distrustful of Dyarchy. Though Lord Birkenhead had not said that Dyarchy had failed he had nowhere said that it had altogether succeeded. Mr. Nehru understood him to have said that Dyarchy had "succeeded where it was not Dyarchy at all." The system stood condemned and yet, Mr. Nehru complained, they were held bound to it. The position to Mr. Nehru's mind clearly was "that you have either to give us real reforms or to go back to your time-honoured methods of autocratic rule."

Coming to his amendment Mr. Nehru said that in its first part it asked for a declaration by Parliament embodying certain fundamental principles. In 1924, Mr. Nehru had asked for a round table conference, which had been refused and he was now making the present suggestion because of the very generous invitation which had been extended by Lord Birkenhead. He asked Government to agree to the principle because without it it would be impossible to frame a constitution which would answer the requirements of the time. Briefly, the principle was that they wanted responsible government in the Central Legislature and the executive, with certain reservations, to be responsible to the Legislature. Dealing with the reservations in his amendment Mr. Nehru pointed to the military expenditure and said that in the suggestion that they had made they did not admit that they could not do the task if they undertook it, but they were making the offer because it had been agreed upon by all nationalists. He asked the Government to take the offer in the spirit of settlement and added that if they did not, it would not be binding on the Swarajists. They wanted the abolition of Dyarchy and the right to frame their own constitution. After Parliament had made the declaration, Government might have a Convention, a round table conference or any other agency they liked so long as it was representative. Replying to the Home Member's remarks about those who had stood aside during the first Assembly, Mr. Nehru tried to explain how non-co-operators had acted and added that the section which had worked them had also admitted that the reforms were a failure and that the machine was over-

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clogged. Mr. Nehru remarked that those who had taken to non-co-operation had been persecuted and that they had entered the Legislatures to mend or to end the constitution. They had first engaged themselves in mending it; if they failed, they would take to ending it. Their national demand had been put in the resolution of February 1924; Sir Malcolm Hailey had formulated the Government policy and had said that if the committee reported that no improvement within the Act was possible the question of the revision of the Act would be left open. Mr. Nehru maintained that the defects in the constitution had been conceded and he asked Government to revise the constitution in a manner acceptable to the country. The Swarajists refused to accept the Preamble to the Government of India Act; they had suffered in the past; they were prepared to suffer in the future. The fundamental principle of devising a constitution for India must be "self-determination." Dealing further with his amendment, Mr. Nehru said that he was not asking the Government to do more than His Majesty's Government had done in following the wishes of the people concerned in framing constitutions for Australia and South Africa. Mr. Nehru asserted that the Swarajists would not be diverted by strong words in the pursuit of their birth-right. If the door of co-operation was not open to threats, still less would it be stormed by force. In further commending his amendment Mr. Nehru said that it would clarify the issue as to what the Royal Commission would do. Wise men were not slaves of facts and Mr. Nehru said that they were not slaves of Preambles either. All Acts of Parliament were the results of its wisdom and experience. It could set aside its own Acts; and Mr. Nehru asked it to do the same with regard to the Government of India Act. If the first condition for further advance was co-operation, Mr. Nehru said, "My first condition, as clear a condition as your own is, is that unless you show a change of heart, we are not going to co-operate. The hand of fellowship was extended to you in no grudging spirit by the late founder and chief of the Swaraj party. You have rejected it, but I am here to say that I and my party stand by what he said." (Mr. Das's Faridpur speech). If Government did not accept it, the Swarajists would be forced to go on the road they had first chosen. "When there is no alternative open to us, we must take the road leading to it (civil disobedience), however, long and weary it may be. Civil disobedience may not come for years, but it has to come one day, and the sooner we begin our preparation the better." Continuing Mr. Nehru said "The history of the so-called reforms is painful and depressing reading at present, but as it develops in the near future, it will, I am confident, furnish the brightest chapter to the chequered history of this land. The struggle for freedom once begun must sooner or later have its appointed end, and that end is no other than the achievement of the fullest freedom. It remains to be seen whether England will share the credit of that achievement by willingly giving a helping hand or suffer that achievement to be wrested from her unwilling hands. These are the only alternatives. It is for England to choose."

Colonel Crawford commented on Mr. Nehru's refusal to serve on the Reforms Inquiry Committee and congratulated the members of the minority on having served on it. Colonel Crawford denied that Dyarchy had failed, but admitted that it was unpopular and claimed that its unpopularity was the chief evidence of its impartiality. He was agreeable

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to the appointment of a Royal Commission earlier than 1929, but he felt that the demon of distrust must be exercised before the Commission was appointed. Referring to the difficulties in the way of India being given responsible government, Colonel Crawford expressed the view that India was not a nation and he thought that India should have a representative rather than a democratic Government. He strongly pleaded for co-operation. Sir Sivaswamy Aiyer approved of all the recommendations of the majority report, but considered them inadequate and unsatisfactory. To him it was surprising that Dyarchy which had been so much condemned should have found such strong champions from the Secretary of State downwards. The reason appeared to him to be that they had first condemned Dyarchy because they had objected to any transfer of power, and now they were supporting Dyarchy because they felt that any further advance would mean greater transference of power to which they were opposed. If the Commission was fairminded, Sir Sivaswamy Aiyer thought that it would easily discover the answer and he declined to share the fear that its verdict would be against India. Want of co-operation, Sir Sivaswamy Aiyer thought, did not imply want of capacity, and if the only inference that could be drawn from the abstention of the non-co-operators was that they were opposed to the British connection, the Commission might well be influenced by it into reporting against a further advance. But the real meaning of the attitude of the non-co-operators to Sir Sivaswamy Aiyer was that they were not satisfied with the measure of reform and the promise of advance; and the strength in which they had now entered the councils showed their desire to take part in constructive work. Sir Sivaswamy Aiyer did not feel that any inference could be drawn from the lack of co-operation as to the amount of confidence which could be placed in the sense of responsibility of those on whom new opportunities had been thrown. He referred to the work of the first Assembly and claimed that Government had received the fullest measure of co-operation and after the tribute the Government had then paid them, it would be hardly fair to turn round and say that they could not place any reliance on their sense of responsibility. Sir Sivaswamy referred to Mr. Patel's election as President and argued how opportunity for responsibility made people sober and rise to the needs of the occasion. Explaining why people had turned non-co-operators, Sir Sivaswamy Aiyer said that they were not convinced of the sincerity of the professions of British statesmen. He gave Government credit for all the improvements in the country, economic and otherwise, but maintained that the attitude of distrust was to a large extent justified. He urged on the Government the necessity of revising the constitution and said that failure to do so would increase bitterness and distrust in the country. Pandit Motilal Nehru's amendment embodied the demands of the Liberal Party and though Sir Sivaswamy Aiyer recognised that there were difficulties in the way of Government, he did not consider them insuperable. Mr. Shanmukham Chetty said that though the intentions of the framers of the Government of India Act might have been good, their judgment was wrong. He claimed that Dyarchy had failed from its inception and that the majority report had failed to do justice to the facts which had been put before them. Co-operation, Mr. Chetty said, must be mutual and there could be no real co-operation unless Government gave an earnest of their change of heart and their *bonâ fides*. Mr. H. G. Cocke asked the

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House to remember that India was a continent and not a nation and among the difficulties to be faced he mentioned the Indian States, the possibility of attack from the sea, communal differences, etc. He saw no logic in rejecting the recommendations of the majority report and pointed to the progress the country had made under British rule. He warned the House against committing itself to any violent change, because the chaos resulting from it might have a serious effect on the progress which had already been achieved. Mr. Ranga Iyer held English officials responsible for communal differences and claimed that Indians could settle them, but so long as the British continued it would be impossible. He quoted from Sir Charles Bruce's "The Broad Stone of Empire" to show that the position in Canada and South Africa was more desperate than that of India at the time they were respectively granted self-government. When these countries and Ireland had been given freedom, Mr. Ranga Iyer saw no reason why India, with a greater past, should be denied her liberty. Mr. Rangachariar dwelt on the importance of the subject to Government and said that the real object of the Government of India Act was to train people in the art of responsible government and quoted Sir Alfred Mond to show that in this purpose the Act had failed. He inquired as to how long they were to tolerate the system of an irresponsible and irremovable executive sitting in the Himalayas. Though Englishmen were not the slaves of dates, they were the slaves of phrases, otherwise Mr. Rangachariar saw no reason why they should insist on standing by the Preamble to the Government of India Act. If they meant to stand by the Preamble they should make it clear and he would at once bid good-bye to the Assembly. He advised Government to deal with the intelligentsia and to realise the significance of a demand which was made on behalf of all parties. He asked Government to agree to some fundamentals, so that the country could devote itself to constructive work.

Sir Charles Innes expressed his sense of disappointment at the amendment. He had hoped that the offer of the Secretary of State and the speech of His Excellency the Viceroy would lead to an offer to work the reforms whole-heartedly. The objective of every one was responsible government for India, though they differed as regards the manner, the measure and the time of advance. The amendment asked first for a declaration, and then for a round table conference; but it left it vague as to whether the recommendations of the conference would be subject to the approval of Parliament. Sir Charles dealt with the importance of the Preamble to the Government of India Act and said that the amendment challenged the proposition that any extraneous authority could settle the constitution. To pass the amendment, Sir Charles Innes said, would be throwing back with contumely the offer of His Majesty's Government. The claim made in the Preamble could not be allowed to be derogated from by the Assembly. "The British Government hold the responsibility for the people of India, not for one section of the people, not for the intelligentsia,, not for the people that I see round me in this House, but for the whole people of India. That is the claim that is stated in the Preamble and that is the claim which we on the Treasury Benches cannot allow you in any way to diminish or derogate . . . . . ." The amendment amounted to telling the British officials "Thank you—your work is done." Sir Charles Innes said "When you come to us and tell

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us that, we have a right to ask, in the first place, what are your credentials? In the second place, what guarantees can you offer for that stability without which the self-government that you claim will be a mockery and a danger?" Dyarchy was the best device they could think of for the transitional period and Sir Charles Innes did not admit that it had failed, though he admitted that it was difficult to work. The real question, the Commerce Member thought, was not whether Dyarchy was in itself good, but what they were going to put in its place. The alternative suggested by the other side, namely, " full self-government subject to certain safeguards " was the logical answer. But there were difficulties in the way of the demand. Sir Charles did not complain of lack of ability or lack of responsibility or fear of anti-British action. But the difficulties lay in the size of India, the social structure and the want of fundamental unanimity. On the one hand there was a desire for full self-government, a perfectly natural and legitimate desire, which officials respected to the full. On the other hand, they could not help seeing the grave dangers of that advance being too premature. " It is just as if we were on the edge of a cliff and at our feet there were a deep abyss." Proceeding Sir Charles Innes said " I personally have got no solution to offer for that difficulty, and I do not believe that anyone of the Honourable Members opposite has any solution for it: and that is why we, His Majesty's Government and the Government of India, feel that the only possible way of finding a solution of these difficulties is to have an examination by a perfectly impartial Royal Commission. . . . We say that for the solution of that problem we must get the greatest brains in the Empire. Indian and European must work together in the solution of the problem . . . . . Believe me, Sir, when we talk about co-operation in the solution of this problem, we must clear our minds of all cant. Let the co-operation be real, let there be no spirit of bitterness. Let there be no spirit of malice, hatred and all uncharitableness. It is, as I say the greatest problem that has ever faced the world, and if we are to solve this problem, we must attack it in the words of the English prayer book ' With a humble and contrite heart.'"

Mr. T. C. Goswami said that if the report of the minority was biassed, so was that of the majority, because Government members had been bound by the trammels of office. The history of India, he continued, must be poor and trivial if Lord Birkenhead's speech was to be a landmark in it. Mr. Goswami quoted from a speech of the Leader of the Conservative Party in 1914 threatening armed revolution in Ireland and said that Lord Birkenhead who in 1920 and 1921 had gloated over the reprisals in Ireland had lived to support the Irish Free State Bill in 1922. Mr. Goswami asked the House not to vote for the amendment if they were going to flinch from the consequences of supporting it at all costs. Sir Purshotamdas Thakurdas complained that Sir Charles Innes had done his best to cloud the issue. He explained that Sir Muhammad Shafi having said that if he had been free he would have signed the minority report, the latter report really represented the views of the majority. Dealing with the position that no progress was possible so long as the differences between the Hindus and the Muhammadans were so wide, Sir Purshotamdas inquired if Government were certain that by continuing the present system they would within a stated period remove this difficulty. Sir Purshotamdas gave reasons as to why in the Central Government they could no longer tolerate an irremovable and irrespon-

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sible executive and he mentioned the position of Indians abroad, the way the Commerce Member had looked after the industries of the country, the manner in which India was being represented at International Conferences and the policy of Government with regard to agriculture. Sir Purshotamdas disclaimed any intention of holding out any threat, but he said that in supporting the amendment, he fully realised his responsibility as a representative of trade and commerce and supported it because he felt that no progress and no relief were possible until something was done. Mr. A. Rangaswami Iyengar compared the Government of India to a corporation run for the benefit of its shareholders. He tried to show that so long as the theory of a corporation existed, so long as vested rights and privileges existed, it would be idle for England to claim that she was putting India on the road to responsible government. He complained that every step Lord Birkenhead had taken had been taken to protect the interest of the services. Syed Majid Baksh also supported the amendment.

The discussion was continued on the 8th September and concluded that afternoon. Mr. Muhammad Yakub said that educated Mussalmans were of opinion that the Government of India Act was inadequate and required to be immediately changed. Dealing with the argument that India should wait till she was fit for responsible government, Mr. Yakub inquired if England had waited till she was fit. Mr. M. V. Abhyankar asked that India should be given control over the purse; that the Governor-General should be responsible to the Indian Legislatures; that the officials in the country should be the servants and not the masters of the people; that his Council should be abolished and the Secretary of State himself should be placed on a par with the Colonial Secretary; that the Army in India should be Indianised within as short a time as possible; that election be based on a wide franchise; that the various Local Governments be made responsible to the local Legislatures and the electorate be given the power to control them through their representatives in the Councils. Mr. Abhyankar said that the claim of Britain's trusteeship for India was a falsehood, that it was not a trust but a bombastic fraud. He inquired how after Jallianwala Bagh and the manner in which non-co-operators had been sent to jail it could be claimed that the British had given India peace and saved her from the horrors of anarchy. Mr. Ramachandra Rao condemned as insignificient the proposals contained in the majority report and regretted that after almost all witnesses had considered Dyarchy a failure, when no responsible person or association in the country had endorsed the proposals of the majority, and when the majority itself had felt that anything done within the terms of the Act would not satisfy public opinion, the Home Member should have come up with his resolution to the Assembly. If the size of India was an obstacle to further advance, that obstacle would continue for ever. The arguments about social structure, communal differences, lack of unity, etc., had always been urged and yet the British Government had each time taken a step forward, Mr. Ramachandra Rao failed to see why these arguments were being continually advanced. Diwan Chaman Lall said that the atmosphere in the Assmbly was surcharged with unreality. The Treasury Benches were convinced of their power, but brute force was a double edged sword which might enable Government to put the people down, but would ultimately end the system of Government which was based on it. In asking the people to co-operate in working a scheme which was impossible and unworkable, Diwan

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Chaman Lall said, Government were asking them to give up non-co-operation, become beggars and to eat humble pie. That was not a sound bargain and no one could accept such a humiliating position. He warned Government that they had come to the parting of ways and if they did not hold the hand of friendship which was now being offered, Diwan Chaman Lall and his party would raise a storm which it would be difficult to get over. Sir Basil Blackett contrasted the debates of March 1924 with those which had since taken place to show that "there had been a very great deal of co-operation" and he thought that the historian of the second Assembly would eventually say that it had had as good a record in this respect as the first. Dealing with the charge that there was no control over the purse, the Finance Member referred to the Public Accounts Committee and the Finance Committee and pointed to the control the Assembly exercised. He denied emphatically that the interests of India had been neglected and claimed that a Ministry responsible to the Indian Legislature would have behaved in regard to exchange and currency, in the matter of industries, etc. in exactly the same manner as the present Government had done, because it would have endeavoured to conduct its policy for the interests of the people as a whole and would not have been so unwise as to adopt entirely the views represented by the Bombay Merchants' Chamber and Bureau. Coming to the amendment itself, Sir Basil said "It has one great virtue: it is open to a Swarajist interpretation, to an Independent interpretation, and to a Moderate interpretation and as far as I can make out the three interpretations are not the same. They are entirely incompatible and will thereby salve the conscience of a large number of people holding entirely different views when they vote for the same Resolution and mean entirely different things." Sir Basil explained that there was a great opportunity before the country which was being thrown away and that the amendment was in form an entire rejection of the invitation to co-operate from the British Government, Lord Birkenhead and His Excellency the Viceroy. The Finance Member examined various questions, including provincial autonomy, to show that the subject needed a good deal of thinking which ought to be done before the Commission came out. Sir Basil appealed to the House to consider carefully the offer made by Lord Birkenhead and the Viceroy and said "If they really mean an offer to co-operate by this rather catholic . . . . amendment, let them think whether they cannot frame it or at any rate explain it in a form that will not be what it is at present, a direct rejection of the offer of the Secretary of State to consider any constitution that may have had behind it wide support of Indian opinion and a direct rejection of the Preamble of the Government of India Act, which says that the manner of any advance must be determined by the British Parliament."

Mr. Jinnah felt that the political horizon was dark. He referred to the Resolution which had been passed in 1921 demanding an earlier revision of the Act than 1929 and to the Despatch the Secretary of State had sent out on the subject. In February 1924 in Pandit Motilal Nehru's amendment, as passed by the Assembly, it had been stated that the Act was unworkable. The Reforms Inquiry Committee had found that progress of a substantial character within the Act was impossible, and the issue was perfectly clear, namely, as to whether they would have a revision of the Act at an earlier date. The arguments advanced against progress Mr. Jinnah remarked, amounted to scandalising the nation. If they were not a nation to-day, would they become a nation

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by 1929? When Indians were asked for their blood and money during the War, when India was asked to sign the Treaty of Sevres, when she was asked to contribute towards the expenses of the League of Nations, Mr. Jinnah complained, Indians were regarded as a people and a nation, but when they asked for a further advance, they ceased to be a nation. If Indians had been kept out of the army for a hundred years, Mr. Jinnah said that it did not lie in the mouth of the Government to say that they were not fit to defend the country. Dealing with the offer of co-operation, Mr. Jinnah asked what was Government's answer to those who had co-operated, and further if the Government wanted to bring down to their knees the largest party in India, the Swarajists. He contended that Pandit Motilal Nehru and his party had co-operated and no further proof of co-operation was necessary unless the Government had no ears and no brains. Mr. Jinnah inquired as to who was the arbiter of the harbour of Boston, in the matter of self-government for South Africa, Canada and Ireland. He added that if they wanted a revolution in India, they could easily have one. The theory of trusteeship, Mr. Jinnah urged, was false and exploded. India had not seen the horrors of anarchy and chaos but she had seen the horrors of being unarmed, of being kept out of the monopoly of administrative appointments, and of being kept in darkness, which were worse than the other horrors. India wanted to free herself, and the only way to do it was to replace the irresponsible bureaucracy by a responsible Cabinet. Concluding, Mr. Jinnah said that India was in a difficult position but she was determined to win her freedom. The manner and the measure of the demand could either be determined within a reasonable time by England or India would herself determine them. Seth Govind Das speaking, as he said, on behalf of the landlords in his constituency, opposed the Resolution and supported the amendment. Mr. Duraiswamy Aiyangar supported the amendment, but deprecated the three reservations contained in clause 2. He complained that even within the terms of reference the Reforms Inquiry Committee had failed to make recommendations which might at least have suited such sections as were making more modest demands, for example those relating to the transfer of more subjects. Dr. S. K. Datta also supported the amendment and criticized several recommendations of the Majority Report and said that they had not given any thought to the question of the representation of important minorities. Dyarchy, Dr. Datta said, was a very old institution and had been tried in the time of Lord Clive and had even then failed. The Home Member, referring to the amendment, said that its chief virtue was that it had brought very different schools of thought within its terms, and if it was intended as a considered proposal from those who had made it, it must be inferred that they envisaged the future constitution of India as based on Western ideas and Western conventions. Mr. Montagu had told Sir Alexander that the scheme underlying the Government of India Act was based entirely on Western ideas, and the Home Member inquired if the amendment finally rivetted down the direction of future progress in India. If that was made clear, they would at least know where they were. After carefully analysing the terms of the amendment, the Home Member observed that it involved the repeal of the Government of India Act and the virtual repeal of section 84 A, that is, there was to be no authoritative inquiry. He wanted to know whether the demands which had been handed in were an ultimatum, or were put forward as an offer. He accepted them as an offer but wondered as to what sort of

offer it was when not a comma nor a dot of it was to be changed. If the offer was accepted, the Home Member inquired, what sort of a contract it would lead to . . . . bilateral or unilateral, and what the Government would get in return. Constitutional advance, the Home Member said, could only come from the English Parliament and its good-will. He therefore saw no reason why words had been used which were calculated to prejudice India before that Parliament, and he strongly deprecated the use of expressions like "thieves and robbers" as applied to British officials. The Home Member recognized that the amendment had been put forward in perfect good faith, but to it had been affixed an impossible condition. He regretted that the electorate had not been mentioned in the speeches except by Mr. Jinnah. Sir Alexander agreed that it was the business of the Government to settle the difficulties with the help of non-officials, and one of the difficulties was the question of the electorate. He asked the House to remember that it would not improve matters by ignoring facts. The Home Member strongly denied that by pointing out difficulties, they were scandalising anybody. Dealing with the recommendations of the Majority Report, the Home Member felt that it was sometimes wise, in asking for large concessions, to take small ones. If the amendment were accepted, what could the Government point to as the history of the institution when the time came for an inquiry without which no further advance was possible? He asked the House to remember the terms of the offer of the Secretary of State, and not to close the door by making Government's position more difficult. "Do not give us an ultimatum under the guise of an offer", said the Home Member. "It is neither wise nor, I suggest, likely to be effective. I earnestly hope that you will believe me when I say that we are not merely giving you a blank answer to what I recognize is an attempt to put down on paper what we have never seen on paper before—the united amendment of both parties." Dealing with the question of Provincial Autonomy, the Home Member said that the Government of India had invited Sir Frederick Whyte to investigate and report on the relations between the Central and Local Governments in other parts of the world with special reference to conditions in India; Sir Basil Blackett also proposed to have the problem investigated more particularly from the financial point of view. "In my judgment", concluded the Home Member, "that is the way in which we can prepare what I referred to in my first speech, the necessary evidence which is to be laid before, and must be considered by, the Royal Commission whenever that Commission may be appointed." Mr. Jamnadas Mehta supported the amendment and said that its acceptance by Government would be an acid test of the genuineness of their appeal for co-operation. The Government of India, he said, was insignificant in England, impotent abroad, and tyrannical in India; by accepting the amendment, it would become a real Government in India. Mr. Venkatapati Raju supported the amendment. Lala Duni-Chand thought that the time was most opportune for a settlement. Mr. Abdul Haye also supported the amendment. Mr. Devaki Prasad Sinha dealt with the economic aspect of the amendment and argued that Swaraj was as much an economic as a political necessity. Sir Abdul Quaiyum pleaded for some constitutional advance for his province and urged that no further advance should be made with regard to the rest of India until the North West Frontier Province was ready to move forward with it. Mr. M. S. Aney characterised the Resolution as flat and bald and as amounting to a request to the House to give the

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Government of India a blank cheque. The present constitution had failed, Mr. Aney said, because Government had not consulted public opinion in framing it, and that he urged, was a strong reason for Government accepting the amendment. He appealed to Government to make timely and generous concessions and argued that these resolutions were the symptoms of a mighty revolution in the land which Government could by the steps they took accelerate or check. Sir Darcy Lindsay objected to the amendment on the ground that no time had been given to consider matters of such moment. He saw no point in antagonising the British Parliament and advised against extravagance of speech. He asked the House to consider Lord Birkenhead's offer and not to reject it. Those who asked for a change of attitude, Sir Darcy Lindsay thought, should show a little reciprocity, and he asked them to co-operate in working the reforms for all they were worth because that was the only way to win the goal. He gave a Summary of what the Assebmly had accomplished in order to show that the reforms were not a sham and emphasised the value of some of the recommendations of the Majority Report. Mr. Joshi complained that the machinery of the Reforms Act was unsuited to protect the interests of the masses, and that the Government of India had failed to do their duty by the working classes. He claimed that there should be adult suffrage and pleaded for the increased representation of labour on the Legislative Assembly, which should be secured by election. Mr. Amar Nath Dutt also supported the amendment. Mr. M. C. Naidu supported the Resolution and considered the amendment premature. He characterised as partisan the speeches of Sir Sivaswamy Aiyer and Diwan Bahadur T. Rangachariar. Pandit Madan Mohan Malaviya gratefully recognized that there had been progress under British rule, but contended that with responsible government that progress would have been 10 or 15 times greater. He said that if the Government of India took into account Sir Muhummad Shafi's statement, the Minority Report would be converted into a Majority Report, and it was not fair to the Government, to the country and to Parliament to put aside the report of the Minority and give effect to that of the Majority. Since 1886 Mr. Malaviya had maintained that India was fit for self-government, and all the time the same old arguments had been advanced against it; they did no good and only hurt the feelings of the people. He remarked that Lord Birkenhead's remarks disclosed his ignorance of Indian history and Indian conditions. In the circumstances in which they were placed, the amendment was all that they could have put forward and Indians had long ago decided to adopt Western institutions, but they had imposed certain limitations. He saw no reason for any complaint against the non-co-operators, pointed to the number of them sitting in the Assembly, and said that the mere defeat of individual motions did not mean that the Members were non-co-operating. Mr. Malaviya did not deny the authority of the British Parliament, and stated that the reference to Parliament of the results of the conference or any other agency which considered the constitution constituted an admission of their continued desire for some time to submit to it. He wanted an agreement honourable to India and to England, and asked Government not to regard non-officials as opponents. He claimed that they wished to understand the Government and begged the Governmnt to understand them. Sir Alexander Muddiman in winding up the debate said that an entirely different view

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of the amendment had been put forward by Mr. Malaviya and inquired whether the mover would accept the gloss which had been put upon it. To the Home Member "any suitable agency" could not include a Royal Commission, and the context appeared to be against such an interpretation. He denied that European officials were the servants of European capitalists and maintained that they had done more to prevent exploitation than anybody else. The Home Member recognized that the tone of the debate had undoubtedly been moderate and that a desire for co-operation had been expressed from all quarters of the House. He asked the House to remember that officials did not like ploughing the sand any more than non-officials did. He did not himself consider that non-co-operation meant the rejection of individual measures, but he claimed that the House should consider Government's proposals on the merits and not put a black mark against them because of the source from which they had emanated. Sir Alexander had no doubt as to the support the amendment would receive in the House and, concluding, expressed his hope that the decision come to would be in the best interests of India. Pandit Motilal Nehru's amendment was, however, carried by 72 votes against 45.

Reforms Enquiry Report in the Council of State.

The discussion in the Council of State took place on the 11th and the 12th September. Mr. Crerar in moving the resolution referred to the magnitude of the task implicit in what might appear to some a limited or even an unimportant proposition. The contact and ultimately the identification of the political future and destiny of India with the contribution made by British institutions not only to India but to the civilized world, presented, he believed, a problem for which the only parallel in human history was the system of Roman law. In the realm of political institutions the English tradition had taken a place certainly not inferior to the Roman tradition in law and it was with this, in its application to the needs and aspirations of India, that they were now concerned. The enterprise was formidable and would be appalling but for the faith that in the institutions which had been set up in India, if wisely and prudently applied, there was an inherent virtue of adaptation, of development, and of catholicity. Mr. Crerar drew the inference from the amendments on the paper that the leaders of political thought in India had definitely elected and declared that the political progress of India must proceed on and be governed by these principles. In the conditions necessary to regulate further progress he included firstly those which proceeded from the law and the constitution, and secondly, those which independently of all such considerations were necessarily and inevitably inherent in the task itself. The first of these was sufficiently recited in the preamble to the Government of India Act 1919, and contained a doctrine which it was not only impossible in a summary survey, but unnecessary to examine on its warrant in history, in law, or in morals. For responsible political opinion was agreed on this, or at least was prepared to accept it as the basis of all practical discussion. As to the second set of conditions Mr. Crerar counselled the full use of all the available resources and the discarding of none till its utility had been fully tried and found wanting. He emphasized the need for patience, prudence and circumspection, and the great need for unity and co-operation. The Resolution affirmed the principle that the Government of India Act is a great measure

of political advance which has yielded most important and valuable results; that its potentialities should be further tried and utilized and that the measures requisite to remove any administrative imperfections experienced in its working could and should be adopted. "Continuity and adjustment are," Mr. Crerar continued, "if you will examine it, the pith and the marrow of the Majority Report, not as things drawn from an obsolete and stereotyped code, but as the application to a new range of conditions and demands of a tradition which is not only ancient and well-tried, but vital and active, a force which is still the most hopeful and energetic in a world which without it might well be a world of despondence, disillusion and despair." Milton had written, "The immortal garland is to be run for not without dust and heat." Was it unreasonable to ask that those who deemed it to their interest to enter into the new order of things in which unity and co-operation between England and India was essential should also accept the limitations, the discipline and, if necessary, the delays which the British had been compelled to accept by the hard lessons of their own long experience and by the dictates of their convictions? After Mr. Crerar had moved the Resolution, Mr. Phiroze Sethna moved an amendment identical with that which had been moved in the Assembly by Pandit Motilal Nehru. Mr. Sethna argued that, if one of the Majority had sided with the Minority, the tables would have been turned and he asked if in that event Government would have pressed the acceptance of such a Majority Report. The Indian public and the country, Mr. Sethna thought, did not attach the same importance to the Majority as to the Minority Report. He said that Government must have a very curious notion of the intelligence of the Indian Legislature and of their sense of responsibility if they expected it to subscribe to an illiberal and unstatesmanlike Resolution which flagrantly, definitely and defiantly ran counter to the wishes of both the Legislature and the public. "Here is willingness on the part of that National Party" said Mr. Sethna, "which opposed Government at all times, to drop such opposition and to co-operate. And, if Government do not choose to accept it, the blame will lie with Government and not with us. Until our demand is favourably entertained, it will be the bounden duty of the Indian Legislature and the Indian public to persist in such demand because we regard it as our due and which we ought to obtain as soon as possible." Mr. Ramadas Pantulu said that the debate raised three issues, namely, had Britain a Divine, legal or moral right to continue to rule India as a dependency; had the Indians a right to govern themselves; and what was the best and the quickest mode of transference of power from the British to Indians. He answered the first issue in the negative and the second in the affirmative and held that, after 150 years of British rule, Indians were poorer, weaker, more disunited and disorganized than they had been before. The right to attain self-government having been conceded, they had really entered on the third issue and that was the justification for the amendment. Swarajists, Mr. Ramadas Pantulu said, were willing to co-operate with Government on honourable terms, but, if their co-operation was thrown to the winds, there would be only one course left open to them, namely, non-co-operation, passive resistance and civil disobedience. Sir Deva Prasad Sarvadhikary said that the Commonwealth Bill, as drafted, and the amendments before the House might be a basis of consideration by all who earnestly wanted to apply their minds to the ques-

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tions. He asked Government not to let "too late" be writ large on their portals and moved the following amendment:—

"That in the amendment moved by the Honourable Mr. Phiroze C. Sethna the following amendments be made, namely:

'1. That for the first paragraph beginning with the words 'this Council recommends' and ending with the words 'and administration of India' the following be substituted, namely:

'This Council recommends to the Governor General in Council that all necessary steps be taken early to have constituted in consultation with both the Houses of the Central Legislature, a convention or other suitable agency (which shall be representative of both the Houses of the Central Legislature, of the Provincial Legislatures and of all sections of public opinion in India) for the purpose of framing a draft constitution for India on the basis (among other things) of fundamental principles enumerated below and with due regard to the interests of minorities, namely:'

'2. For the last paragraph beginning with the words 'This Council further recommends' and ending with the words 'to be embodied in a Statute,' the following be substituted, namely:

'This Council further recommends to the Governor General in Council that such constitution when framed and approved of by the Central Legislature should be presented to the British Parliament with a view to being embodied in a Statute.

'This Council also recommends to the Governor General in Council that without prejudice to the above recommendation and as a tentative measure, effect be given to such recommendations of the Majority Report of the Reforms Inquiry Committee as are consistent with the recommendations of the Minority Report.'"

In opposing the amendment Sir Alexander Muddiman urged that it was in contravention of the recommendation of the Minority Report. The Home Member referred to the speech of the Secretary of State where he had expressed himself as quite prepared to consider the constitution framed on a different basis from that on which the British Constitution rested and said that he assumed from the amendment that that had been definitely rejected by those who supported it. But advance could only be secured by the good will of the British Parliament and Parliament had laid down that there must be an examination by a Statutory Commission into the working of the present Constitution. The really important matter to the Home Member's mind therefore, was not the particular year when the Commission met but the evidence and facts which could be put before it. The Home Member reminded the House of the Viceroy's observation that in his judgment it would be disastrous to the best interests of India to appoint a Royal Commission immediately. To the inquiry as to whether the date of the Commission could not be advanced, the Home Member said the Secretary of State had given the answer. Endorsing His Excellency the Viceroy's appeal for co-operation, Sir Alexander said co-operation was a course of conduct and not a phrase. "It does not mean that I should stand here and say I am going to do something in the future; it does not mean that you should say you are going to do anything in the future; it means that reasonable men will be able to conclude from facts, from facts and actions, that Government have received that mead of co-operation which the Secretary of State says is essential before there can be any reconsideration of the date of the inquiry." Mr. Natesan urged that Dyarchy did not satisfy the requirements of the country, the aims, aspirations and ideals for which Indians were yearning. He appealed for the adoption of some better system more suited to the genius and requirements of the

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country. His strongest reason for supporting the amendment was the Declaration made in Parliament by the Secretary of State. Srijut Chandradhar Barooah also supported the amendment. Colonel Nawab Sir Umar Hayat Khan said that they could not take the Reforms by force and reminded them that, when the Reforms were given, the course according to which progress was to be made had also been settled. He advised the House to take gratefully what they could get and then to ask for more. He opposed the amendment. Mr. K. C. Roy said that the amendment was not a business proposition. It meant a new Parliament Act and with a strong Tory Government in power in Great Britain it was no use hoping for one. He pointed to the great service Lord Reading had rendered to India; he had committed the Baldwin Ministry to the acceptance of the preamble of the Government of India Act and to the statement that there was no bar to the appointment of a Royal Commission before 1929. Rai Bahadur Lala Ram Saran Das said that a system of Government which did not profess to be responsible either to the people of the country or to their representatives marred their progress and hampered their development in many directions. Dyarchy was dead and it was no use sticking to it. Sir Maneckji Dadabhoy was convinced that those who had moved and supported the amendment had gone off the rails. The immediate issue before the House was that certain alterations, which were permissible within the scope, structure and purpose of the Government of India Act and the Majority of the Reforms Inquiry Committee had recommended, should be carried out. The considerations which had been urged in support of the amendment were irrelevant to Sir Maneckji's mind and he felt that the amendments could not, in the face of the preamble of the Act of 1919, be constitutionally moved. He expressed his grief that the Assembly had spurned the great opportunity which had been given to it by the English people and that co-operation which the Secretary of State had "asked for has been responded to by arraigning the Government of India with a long and formidable catalogue of charges against them, by reciting their sins in the past . . . . . " Referring to his visit to England, Sir Maneckji said that the feeling there was very hostile to this country and it would be a very serious mistake for any of the legislators to suppose that by force, by threat or by passing the amendment they were going to gain their object. Speaking on behalf of the European community Sir William Currie said that, as business men, they wanted "a stable government, reasonable taxation, no restrictive or racial legislation, and as little State interference as possible." And, if within the next few years they were given proofs of an earnest desire to co-operate and proofs that minority communities and business interests would be protected, the European commercial community would not withhold its support to the goal of Indian political aspirations. Mr. R. P. Karandhikar supported the amendment. Dr. Dwarkanath Mitter wanted to steer a middle course and asked the Government to consider seriously whether a Royal Commission could not be appointed either at once or within a short time. Sir Arthur Froom regretted that any Member should have uttered threats and appealed to the House not to throw over the recommendations of the Majority which had been put down after the greatest consideration and thought. Major Nawab Muhammad Akbar Khan feared that the impatience of some of them might prove the impatience of a patient to eat everything when digestion in consequence of a prolonged illness was bad. Sir Dinshaw Wacha asked the House to remember that the present

was a crucial and critical time when they had to pause, consider and go cautiously. They had not got experience of even 70 months and he advised the House to obey Parliament and have full faith in it that their cherished aspirations would be duly realised in good time. The Honourable Nawab Bahadur Sir Amiruddeen Ahmed Khan agreed with Sir Maneckji Dadabhoy. Sirdar Charanjit Singh supported the Resolution and said that it could not be urged that co-operation had been given on a wide scale. Mr. Manmohandas Ramji said that the expenditure of the present government was top-heavy, the needs of the country were not adequately provided for, the provinces were crying for money and the only course left open to the people of the country was to ask for a change in the mode of Government. Sir Deva Prasad Sarvadhikary's amendment was put to the vote and negatived without a division. Mr. Sethna's amendment was lost by 29 votes against 10.

When the debate was resumed on the 12th September 1925, Mr. K. C. Roy moved that the following be added to the original Resolution:— "and that he do consider and recommend the appointment of a Royal Commission or any other suitable agency not later than 1927." Sirdar Charanjit Singh opposed the amendment, Mr. Yamin Khan supported it. Sir Alexander Muddiman said that the date of the Royal Commission was of very little importance compared with what the Royal Commission was going to do when it was appointed. A premature Royal Commission, he thought, would not have results which would appeal to Indian opinion or to those who thought that the best interests of India would be served by an inquiry at the right moment. "Had co-operation been received in other quarters," said the Home Member, "to the extent that it has been received in this House, I have no doubt we should be far further on the road to the desired goal . . . . . What is wanted, if I may say so, is not statement, but action, and the test for the acceleration of constitutional progress must be the test of fact and act." Sir Deva Prasad Sarvadhikary did not suggest that they did not want an early Royal Commission but he found it difficult to support Mr. Roy's amendment as part of the original proposition. Colonel Sir Umar Hayat Khan asked the House to be cautious and not to accept all the amendments which struck at the root of the main Resolution. Rai Bahadur Lala Ramsaran Das also opposed the amendment. Mr. K. V. Rangaswami Ayyangar said that Government were perfectly aware of their demands, of what India wanted, of what the masses wanted, of what the educated classes wanted, of what the Congress wanted and of what the Council wanted; and he did not think that a Royal Commission could throw any more light on the needs of the country. Mr. K. C. Roy withdrew his amendment. Syed Raza Ali moved the following amendment:—

"That the word 'and' after the words 'Reforms Inquiry Committee' be omitted; the word 'effect' be substituted for the word 'consideration'; and at the end of the Resolution the following words be added, namely:

"and that he do take into careful consideration the recommendations contained in the Minority Report."

Mr. Crerar said that the amendment invited the Government of India to give early effect to the detailed recommendations contained in the Majority Report and to give consideration to the recommendations of the Minority Report. His Excellency the Viceroy had in his address to the Legislature stated the position with regard to the first part of the amendment. With regard to the second part, the Secretary in the Home

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Department reminded the House that the main recommendation of the Minority Report was that the Act, as it stood, was radically incapable of working, and that the only remedy was an early or immediate inquiry by a Royal Commission—an issue which had already been rejected by the House. "In view of the considered views", said Mr. Crerar, "laid by Government before the House, and in view of the degree to which they have been endorsed and ratified by the House, could we consistently undertake to take into consideration that part of the proposition?" The Government desired to show the fullest measure of reciprocity to the reason and good-will displayed by the Council, but it was because they could not commit themselves to the full implications of the amendment that Mr. Crerar had to oppose it. Mr. Khaparde thought that those matters with which the Minority and Majority were agreed should at once be given effect to; that others might be taken into consideration as early as convenient; and that the landed interests, which were very peculiarly represented at present, should, if possible, be better and more adequately represented. He supported Mr. Raza Ali's amendment. Mr. Ramadas Pantulu rejoiced that Government had opposed Syed Raza Ali's amendment and said: " . . . . . If we are unable to co-operate with you, we are not to blame. We have tried to extend the hand of co-operation to you on honourable terms. But if you say we should co-operate only on your own terms, I think we can do without it . . . . " Sir Alexander Muddiman expressed his amusement at the attitude of Mr. Ramadas Pantulu who would have none of the recommendations of the Majority Report and yet jeered at Government and at Syed Raza Ali for putting up motions dealing with them. The Home Member pointed out that Mr. Crerar had opposed the amendment only on the ground that it would commit Government to an extent to which Government could not commit themselves. To give effect to the recommendations in terms of the amendment would mean that Government accepted all the recommendations of the Majority Report, which was not the case. By 28 votes to 7 the Council rejected Mr. Raza Ali's amendment and carried the main Resolution.

Two of the recommendations of the majority report of the Reforms Inquiry Committee which had been considered by the Government and with regard to which they were prepared to take action came up before the Legislature in the form of resolutions. On the 9th September 1925 Mr. Crerar moved in the Council of State.

"That this Council recommends to the Governor General in Council that he do proceed to make the amendments in the electoral rules required to give effect to recommendations Nos. 8 and 9 in the majority report of the Reforms Inquiry Committee."

Franchise for Women.

It amounted to a recommendation that the electoral rule 5 prescribing the qualifications of persons eligible to sit as members of the Council should be amended on the lines of the electoral rule 7 so that in the event of the Council passing a resolution affirming that women ought to be permitted to sit as members of the House and after a similar resolution being passed in the Legislative Council of the province concerned, effect would be given to it in the same manner as it may now be given in the matter of the right to vote.

Mr. Ramadas Pantulu moved an amendment adding the following words at the end of the resolution:

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" and to remove the sex disqualification in the matter of registration on the electoral roll of persons who are otherwise qualified to vote in the election to the Council of State."

The President held that the matter could not be brought up in the manner in which Mr. Pantulu had brought it up.

Sir Deva Prasad Sarvadhikary supported Mr. Crerar's resolution, which was carried.

On the 17th September the same resolution was moved in the Assembly by Sir Alexander Muddiman. The Home Member pointed out that Madras, Bombay, the United Provinces and Bengal had removed the bar against voting by women and in Burma women had the right to vote. But no resolution had been passed enabling them to stand as candidates. That deficiency the resolution before the House was intended to remove; it would also remove the bar against women being registered as voters for the province of Ajmer-Merwara. Mr. Rangaswami Iyengar inquired as to what would be the effect of passing the resolution. The party to which he belonged had long been in favour of women franchise and would have no objection to the principle of the reform, but while he did not specifically oppose the motion he did not, by any means, accede to the proposition that Swarajists were prepared to take steps to give effect to the recommendations of the majority report. Mr. B. Das welcomed the proposals on the grounds that the laws made by men worked harshly on women and that women in Indian society had equal status with men. Mr. Sarfaraz Hussain Khan congratulated the Home Member and supported the resolution. He wanted to move an amendment to the effect that special facilities should be afforded to purdah ladies for recording their votes, but the President held that the amendment was outside the scope of the resolution and ruled it out of order. As an orthodox Hindu Mr. M. K. Acharya supported the motion but he did not like women to be exposed to the hardships of canvassing to which men were subjected. The Home Member in his reply said that it was possible that some members might be considering the question of an election and he made it quite clear that the resolution was merely a recommendation and would therefore not operate till the rules had been amended. The Home Member congratulated Mr. Acharya and Mr. Rangaswami Iyengar on their ungrudging and enthusiastic welcome of the resolution, and it was adopted without a division.

On the 16th September Mr. Crerar moved the following Resolution in the Council of State:—

"That this Council recommends to the Governor General in Council that in order to give effect to the recommendation in paragraph 120 of the Report of the Reforms Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows:

(*a*) two Standing Committees, one to deal with Bills relating to Hindu Law and the other with Bills relating to Muhammandan Law shall be appointed;

(*b*) appointments to these Committees shall be made by a Committee of Selection the Members of which shall be appointed at one of the first meetings of the Council to be held in each year and should hold office for one year from the date of nomination;

(*c*) the Committee of Selection shall consist of the President, and the Leader of the House supplemented up to a total number of 6 members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House;

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(*d*) the Standing Committee for Bills relating to Hindu Law shall consist of the Honourable the Home Member, the Honourable the Law Member, if they are Members of the Council, and 15 Hindu Members nominated by the Committee of Selection, so as to include persons well versed in Hindu Law and representatives both of the orthodox and reforming sections of the Hindu Community;

(*e*) the constitution of the Standing Committee for Muhammadan Law shall be similar to that of the Committee on Hindu Law except for the substitution of 10 Muhammadan Members for the 15 Hindu Members;

(*f*) the Members of each Standing Committee shall hold office for one year but may be renominated by the Committee of Selection in successive years;

(*g*) a Bill which has been referred to the Standing or a special Select Committee in one House shall not be referred to the Standing Committee or a special Select Committee in the other House;

(*h*) as soon as leave is given to introduce a Bill other than a Government Bill and subject to paragraph (*g*) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law, it shall be referred to the Standing Committee concerned without further motion;

(*i*) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Council;

(*j*) the further procedure in the Council after the report of the Standing Committee is received shall be the same as the procedure on receipt of the report of a Select Committee."

Standing Committees.

Mr. Crerar said that it had been frequently complained by members of nearly every community in India having a special code of religious rites and usages or of social rites and usages that the safeguards provided by the constitution for premature and ill-considered legislation were in some respects defective. The proposition contained in the Resolution did not offer a complete solution of the difficulty, but it offered a practical means of ensuring that the measure contemplated in it would receive an expert examination by persons who were really qualified to examine and to pronounce upon their merits. It also ensured that all opinions legitimately concerned in these matters would have a full, free and impartial hearing. The procedure, which was borrowed from that of the House of Commons, would involve the appointment of a selecting committee who would be charged with the duty of nominating to Committees which would be concerned respectively with Muhummadan and Hindu law, and to these Committees Bills brought in by private members would be referred. Government measures would not come within the operation of these rules, but it did not follow that if a Government measure impinged upon matters of religious or social usage, it would not or could not be referred to a Committee of this kind. In the first instance these proposals were intended to apply to the Indian Legislature and the result of the experiment would determine whether that procedure should or should not be adopted by the provinces. Mr. Ramdas Pantulu opposed the motion and urged that it would create communal compartments in the Legislature. He did not wish that the Assembly should forego the advantage of having a Select Committee or a standing Committee of this nature to consider a Bill of considerable importance. He also objected to Government measures being exempt from the operation of the Resolution. Sir Deva Prasad Sarvadhikary thought the Resolution would be helpful in some measure in assuring his co-religionists who had begun to be nervous about the future of their religious rites, ceremonies and convictions, and give them the feeling that an intermediate body consisting of Hindus

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or Muhummadans, as the case might be, was likely to be set up and that it would bestow a more considered deliberation than had hitherto been possible upon legislative measures affecting them. Mr. G. S. Khaparde welcomed the proposal and said that the selection committee would be a distinct advantage for the very obvious reason that on it would be a few people who understood the case and they would have the assistance and opinions of others able to help the Committee by putting forward their views and opinions in order to enable the Committee to arrive at right conclusions. He also thought that the discrimination made in favour of Government legislation was justified because Government did not do anything in a hurry and in social legislation they were rather slow to move. He particularly welcomed the provision which would enable the Committee to have a certain number of persons directly concerned with Hindu and Muhummadan law who would sit together, and if they approved of a Bill, there would be something for the Legislature to go upon. Saiyid Raza Ali asked his colleagues to support the Resolution, leaving it open to Government and the Council of State to modify its scope in the light of the experience that might be gathered after it had been in force. The Resolution was agreed to without a division.

On the 17th September the same Resolution was brought up before the Assembly by Sir Alexander Muddiman. Diwan Bahadur Ramchandra Rao moved that the consideration of the Resolution be adjourned to some date during the next session as the matters involved required very careful consideration. He urged that even if the Resolution was carried, effect could not immediately be given to it. Mr. M. S. Aney opposed the motion for adjournment, for which he saw no reason. The question, he said, had been brought up before the Reforms Inquiry Committee, evidence had been given before it, and the Committee had carefully examined the question. The need of a change had been felt for a long time, and Mr. Aney thanked the Home Member for having brought up the Resolution, which he felt would remove considerable apprehensions from the minds of the public and assure them that the reforms would not rob the country of its inherent rights, thereby removing the obstacles to further reforms and political upheaval. The Home Member placed himself in the hands of the House and said that he would accept its decision. Mr. Ramachandra Rao's amendment was put to the vote and carried.

Transferred Subjects and Devolution Rules.

A Resolution dealing with the reforms was moved by Sir Deva Prasad Sarvadhikary on the 15th September 1925 in the following terms:—

"This Council recommends to the Governor General in Council that he should consider the desirability of having a report prepared showing the nature and amount of work done by and in the Central Government for five years commencing with 1921 in respect of and connected with subjects ordinarily known as 'Transferred Subjects' and also showing the nature and quantum of work under these heads that remains to be done under the Devolution Rules or otherwise."

Colonel Sir Umar Hayat Khan opposed the Resolution principally on the ground that it was a fit subject for question which would have been easily answered and thus more time would have been available for the discussion of more important subjects. Mr. K. C. Roy wondered why the Resolution had been moved and for what purpose the report for which it asked

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would be useful. Mr. Crerar explained the constitutional position and said that it was somewhat doubtful if the mover really intended to embark upon difficult and delicate grounds and dangerous possibilities. He added that he understood that it was not the purpose of Sir Deva Prasad to commit the Government of India to any serious constitutional implications, and in view of this, though Mr. Crerar could not definitely commit the Government to embarking on the preparation of a report, he said that they would give careful and conscientious examination to the whole aspect of the case and would consider whether something on the lines suggested by the mover was practicable. The motion was adopted.

Another resolution bearing on the reforms was moved on the 2nd September 1925 in the Legislative Assembly by Pandit Shamlal Nehru in the following terms and the discussion on it took place on the 16th.

Amendment of Electoral rules.

"This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for election to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting." The mover said that the subject had been referred to the Joint Parliamentary Committee who had considered it for a month and had at last decided to advise the Secretary of State to remove the disqualification against political prisoners. He compared the provision in India with that under the English law and remarked that the Government in this country was very unkind in sending to jail and afterwards disqualifying for election persons who had been honoured for their patriotism. Mr. Nehru referred to the events of 1921 and said that 30,000 persons had voluntarily gone to jail and yet they had committed no offence against any real law. Their offence, if any, was against a lawless law. Whatever justification there might be from the administrative point of view for the attitude the Government had adopted, the speaker thought that as a very loyal subject of His Majesty and of the bureaucracy he must point out that it was not sensible to treat such a large number of men in such an off-hand and callous manner. It was dangerous for Government and its administration. If they wanted co-operation they could get it from men who had been sentenced to long terms of imprisonment for having committed no offence at all. Sir Alexander Muddiman said that as worded, the resolution would not only remove the disqualification but would enable persons in prison to be elected. As originally framed the rules kept out people sentenced to more than six months' imprisonment unless they had been pardoned. On the recommendation of the Government of India this matter had been considered by the Joint Committee on Indian affairs in 1924 and that Committee had not recommended the abolition of all imprisonment as a disqualification, but had only accepted the recommendation of the Government of India to enlarge the period from six months to one year. The Reforms Inquiry Committee had also considered the matter and both the majority and the minority had agreed that six months should be increased to one year. The amendment made by the Government of India under their Notification of July 1925, the Home Member said, had enlarged the period of imprisonment to one year and had left to the discretion of Local Governments as to who should be exempted. Sir Alexander himself would have preferred

some automatic arrangement to the one which had been made under the amended rule. But he found it extremely difficult to insert phrases like moral turpitude in the statute. It was true, the Home Member said, that in England a man who had served his term was exempted. It was also true that the House of Commons had power to expel a member which the Assembly did not possess. But the Home Member denied that in other countries no restrictions of this kind existed. In many countries instead of having an automatic disqualification of the kind they had in India it was left to the discretion of the judge trying a case. Certainly in some continental countries the court in addition to the imprisonment, whatever the term might be, might impose loss of civil rights for life or for a considerable period according to the gravity of the offence. The Home Member did not think that the matter had been dealt with in the way he had referred to in any English speaking country or in any country which drew its institutions from the law of England and he did not suppose that the House would consider that they should move in this direction in revising their system. Sir Alexander referred to the provision in the latest constitution evolved by the British Parliament, namely that of South Africa than which, if anything, the rule in India was a little more favourable. Moreover some disqualification had existed from the time of the old councils and the Home Member strongly denied that it was the intention of the Government by means of this power to get rid of political leaders who had fallen within the clutches of criminal law. The provision was needed for the protection of their own Legislatures and the Home Member could not assent to the proposition that those who broke the laws should decide whether the laws they have broken are valid or not." The restriction was not unreasonable and the Home Member trusted that the Assembly would accept the fact that Government had made a step forward in response to its demands.

Mr. M. K. Acharya moved the following amendment:—

"That after the words 'recommends to the Governor General in Council' the following be inserted:

'with special reference to the repressive policy adopted by Government against non-co-operation during the past five years'."

He said that the restriction should be looked at from the point of view of general ethics of punishment and the policy of repression pursued by the Government of India during the last 5 years. The rule which had kept out Mr. Gandhi, Mr. Acharya said, must be got rid of; and to say that one should ask for pardon and then come into the Legislature was adding insult to injury. Mr. Acharya thought that it should be left to the electorate as to whom they should send and the executive should not usurp their functions. Mr. Sarfaraz Hussain Khan agreed with Pandit Shamlal Nehru in substance but felt that the resolution was vague and incomplete because it would admit into the Legislatures men convicted of robbery, dacoity, etc., which even Mr. Gandhi would not like. Mr. Rangaswami Iyengar moved the following amendment:—

"That at the end of the Resolution the following be added:

'after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned'."

The mover claimed that this amendment would remove the difficulty the Home Member had pointed out, namely that of enabling men in prison being elected. The law in England was the same as in all civilised

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countries and Mr. Rangaswami Iyengar saw no reason why it should be different in India. He urged that it was not right to leave to Local Governments the power to determine what was " moral turpitude " and that this particular power had only been given in pursuance of the Government's policy of repression and of their determination to deny Indians their birth-right. Colonel Crafword said that non-official Europeans could not accept the amendment, because they were not in favour of letting in actual criminals. They sympathised with the sentiments underlying the various amendments *viz.*, that persons not convicted of moral turpitude or violence should not be disqualified. He asked Government to consider what was possible in this direction and expressed the hope that Local Governments would make special endeavours to remove disqualifications of this nature. Mr. Abdul Haye supported the resolution and contended that Government did not try to understand the people but merely tried to govern them and to lord over them. Mr. Kazim Ali also supported the resolution and said that because he was a Khilafat worker he had been sentenced to 4 months' imprisonment on a charge that he had taken part in a procession which he had not and of having assaulted persons with lathis, which was an impossibility for one aged 82 years. Sir Henry Stanyon expressed his entire sympathy with the objects of the resolution but regretted that as worded it would admit murders, and others—into the Legislature—a defect which the amendments did not remove. The theory that an offence should not carry two penalties, Sir Henry Stanyon tried to show, had long been exploded in England. The electorate in India was not qualified to keep out undesirables and therefore some disqualification was necessary; but Sir Henry thought that Government should endeavour to devise some rule which while keeping out all bad characters would not keep out overzealous patriots. Lala Duni Chand supported the resolution and said that the only way to reconcile people to the councils was to remove the disqualification. Prince A. M. M. Akram Hussain Bahadur opposed the resolution and said that they should not encourage people who could not exercise self-restraint to enter the Legislatures. Maulvi Ghulam Bari said that if the country wanted Swaraj it must calmly bear all hardships. Repression on the part of Government was doubly blessed. In the first stage of repression Government might like to impose another test and the country should be prepared to bear it. He advised the mover to withdraw the resolution which, he thought, was improper at the present stage of India's political development. Mr. Shamlal Nehru expressed his surprise at the attitude of non-official Europeans who wanted to have different rules for India and for England. He disclaimed that Indian constituencies would return thieves and robbers, because, there was no more gentle, sensible and honest person in the world than the Indian villager. Mr. Shamlal Nehru inquired if men like Messrs. Jawahirlal Nehru, Gandhi, Mahomed Ali, Shaukat Ali and Lajpat Rai were criminals and added that if Government wanted the 30,000 persons who had been convicted in 1921 to co-operate, they must not oppose the resolution, the acceptance of which would be some evidence of a change of heart. The Home Member said that the disqualification had not prevented a large number of men who had taken part in political agitation from entering the Legislatures and he had not expected " to be attacked for having taken action in advance of the Reforms Inquiry Committee on a matter which has been debated in this House and elsewhere for some time and in which the action taven is certainly in the direction the House

wishes." The Home Member himself did not regard the present arrangement as satisfactory, but he claimed that similar provisions existed in other countries. In most countries it was felt that those who broke the law were not fit to make it. Sir Alexander recognised the desirability of bringing in those who were willing to co-operate in a constitutional manner, but he did not think that the rule, as it now stood, was unreasonable. "It is also admitted that it is difficult to give that discretion in any other way, and therefore I am compelled to oppose the very wide and sweeping resolution....." Mr. Rangaswami Iyenger's amendment was carried and Mr. M. K. Acharya withdrew his amendment. The resolution as amended was carried by 48 votes against 47 in the following terms:—

"This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for elections to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned."

It will perhaps be convenient here before passing on to other topics, to mention a resolution which though not directly connected with reforms was of some administrative importance. During the Delhi Session Mr. M. S. Aney had on the 23rd January 1925 moved a resolution recommending that early steps be taken to give effect to the resolution of the Assam Legislative Council recommending the re-transfer of Sylhet and Cachar to Bengal. On the 2nd September 1925 further discussion of this resolution was to have been resumed. Sir Alexander Muddiman stated that he had been in consultation with members who were particularly interested in the subject and had informed them of the present stage of the correspondence and of the question so far as it rested with the Local Governments. These members had agreed with the Home Member that further discussion at the present stage could only be sterile. The Home Member proposed to circulate to all members of the House the correspondence which had taken place and he suggested that the resolution before the House might be withdrawn and that they should discuss the matter on a further resolution next Session when they would be in a position to deal in a more satisfactory way with the matter.

Transfer of Sylhet and Cachar.

Mr. Aney had no objection to accepting the course and the resolution was withdrawn.

The Legislature maintained its interest in the extent to which Indians are employed in offices under the State and the question of the Indianisation of the staff of the High Commissioner's office was raised in the Council of State on the 8th September 1925 by Mr. Phiroze Sethna in the following resolution:—

"That this Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom."

Mr. Sethna said that he gathered from the replies to questions he had received from Government that the cost of the High Commissioner's office and establishment for 1922-23 was £166,400 and that on the 30th September 1923 there were 248 persons in the permanent staff and 319 persons on the temporary staff. At the present time,

Indianization of the staff of the High Commissioner.

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exclusive of warehousemen, messengers, packers, etc., there was a total of 365 persons in the High Commissioner's office. Out of these 245 had been transferred from the office of the Secretary of State for India and 120 new appointments had been made. The total number of Indians out of 365 was only 23 and of these 23, 5 were amongst those who had been transferred from the office of the Secretary of State, so that out of the 120 new appointments only 18 had gone to Indians. Indians thus formed only six per cent. of the number of employees but the total salary drawn by them was much less than six per cent. of the total charges as the majority of them were filling minor positions. Mr. Sethna said that the High Commissioner's office was essentially an Indian Department, its cost was borne by India and yet a large part of its expenses were outside the vote of the Assembly. The manner in which only 18 appointments out of 120 have been given to Indians, Mr. Sethna regarded, was " one more illustration of sacrificing the interests of the Indian to those of the Britisher." The present percentage was very low and constituted a very serious injustice, specially when the offices of the other High Commissioners had imported from their self-governing Colonies or Dominions the majority of their men in the higher positions. He asked Government to lay down a rule that henceforward any future vacancy would be filled, as far as possible by suitable Indians, whether they were employed permanently in London or whether transferred for a period of three years from India. Mr. Chadwick said that the 120 new appointments were new only in the sense that they had for the first time come on the High Commissioner's establishment. To a large extent they were really transfers, as a result of extra work taken over by the High Commissioner in connection with accounts, income tax and in connection with the conversion of the East Indian and Great Indian Peninsula Railways into State Railways and the closing down of the offices of those companies. It could not be suggested, Mr. Chadwick said, that the whole of the staff which was employed in those offices and was accustomed to railway work should have at once been dismissed and their places filled by Indians. Sir Atul Chatterjee a few weeks ago had given his staff as 368, of which 30 were Indians, *i.e.*, 8 or 9 per cent. Inquiries had also been made from other High Commissioners and Mr. Chadwick was able to state that in the offices of Australia, there were 18 Australians out of a total of 196, that is, 10 per cent.; of South Africa 14 were born in South Africa out of a total of 128, that is, 11 per cent.; of New Zealand 16 were born in New Zealand out of a total staff of 119, that is, 13 per cent.; and in the office for Ireland, the senior men were from Ireland and the whole of the clerical staff was from London. Thus specially considering the short time that the High Commissioner's office for India had been open the percentage of Indians employed in that office compared not unfavourably with the corresponding positions in other High Commissioner's offices. Moreover 210 out of the 368 appointments were on grades of pay of which the maximum did not exceed £250 a year; another 128 were on grades of pay whose maximum was Rs. 444 a month. These were mostly routine clerks and rose to the maximum after 15 years or in some cases 20 years' service and started on the equivalent of Rs. 66 a month. " We are not going to get men to go from India to London " said Mr. Chadwick " to do that kind of work on anything like that figure." With education far more widely diffused in England than it was in India, the pay of men of equal educational qualifications was on the whole lower in England than in India. After showing that the starting salaries of

some of the clerical appointments under the Government of India were as high as the final salaries for the corresponding work in the High Commissioner's office Mr. Chadwick said " Is it more businesslike to engage men locally or to send them over from here where they can get starting pay higher than the maximum pay in the High Commissioner's office?" Coming to the 30 posts which carried more than Rs. 555 a month, Mr. Chadwick said that six of them reached Rs. 1,100 a month and were held by very senior men who had come over from the India office and it had not been urged that these men were to be dispossessed. Most of the vacancies must be in the lower grades and Mr. Chadwick said that in spite of this there was an Indian to be found in every grade and not only on the lowest grades. As vacancies occurred in the higher grades, they were brought in. Six posts carried more than Rs. 1,111 a month and three of their incumbents had at one time been Indians and two of them had been perpetually filled by men with Indian experience. Mr. Chadwick did not think that it could be urged that the permanent staff that had been taken over had been unduly favoured for the higher posts. Proceeding Mr. Chadwick observed that Sir Atul Chatterjee had during the last 12 months recruited 12 Indians of whom 3 had since resigned, and it was important to remember that continuity of service in the office was necessary. The principle, however, which Sir Atul Chatterjee followed was " Indian candidates considered to be qualified and suitable are appointed, whenever possible to vacancies on the establishment " and Mr. Chadwick hoped that the Council would endorse that principle. Mr. Chadwick wished to get in Indians in the High Commissioner's office and to have that office closely linked with India, but he could not agree that it was in the interests of India either financially or for their reputation in London to endeavour to convert the High Commissioner's office into an Indian colony in London by laying down a rule as Mr. Sethna desired, that to every post which fell vacant in future or was hereafter created only an Indian should be appointed.

Sir Maneckji Dadabhoy moved the following amendment:—

" That after the word ' taken ' in the first line the following words be inserted: ' as far as compatible with economy and efficiency ';

and in the second line, for the word ' staff ' the words ' higher staff ' be substituted."

He said that the amendment would be consistent with the policy of the Government as enunciated by Mr. Chadwick. Mr. K. C. Roy supported the amendment. Mr. Ramadas Pantulu wanted to move the following amendment:

" To add at the end of the Resolution, the words; ' as much and as quickly as possible '."

The Resolution will then read:—

" This Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom *as much and as quickly as possible.*"

Mr. Sethna did not favour Sir Maneckji's amendment. Mr. Chadwick said that they must not do damage to or hurt those who were already in the office of the High Commissioner, and added that subject to that reservation he was prepared to accept Sir Maneckji's amendment. Mr. Manmohandas Ramji and Mr. K. V. Rangaswami Aiyangar supported Mr. Sethna's Resolution. Sir Dinshaw Wacha pointed out that Government had so far loyally accepted the wishes of

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the House and had appointed an Indian High Commissioner. Sir Atul Chatterjee should be asked to make a report which should be laid before the House so that they might carefully consider and arrive at a just decision on it. Mr. R. P. Karandhikar opposed Sir Maneckji's amendment, and Sir William Currie supported it. Mr. Sethna in the course of his reply said that, as amended, the Resolution would give Government an opportunity always of taking shelter under the words "as far as compatible with economy and efficiency." The Resolution as amended was adopted without a division in the following form:—

"This Council recommends to the Governor General in Council that steps be taken, *as far as is compatible with economy and efficiency*, to Indianize the *higher* staff and establishment of the High Commissioner for India in the United Kingdom."

Another important Resolution dealing with Indianization was moved, in the absence of Haji Ismail Khan who had drawn the ballot for it, in the Assembly by Mr. Lohokare in the following terms:—

Recruitment to I. M. S.

"This Assembly recommends to the Governor General in Council that he be pleased to take immediate steps to arrange that all further recruitments to the Indian Medical Service—India Army Medical Cadre—shall henceforth be only by an open competitive examination held simultaneously in England and India from the year 1926."

The mover referred to the recommendations of the Lee Commission and to the debate which had taken place in the Assembly in September 1914 and regretted that the Secretary of State had not yet passed any definite orders. Mr. Lohokare demanded equal opportunities for Europeans and Indians and desired that the best doctors available should be recruited. Past exeprience, he said, had raised doubts as to whether Indian interests would be safeguarded; and he condemned the present system of recruitment by nomination. Dealing with the history of the recruitment of Indians to the Indian Medical Service, Mr. Lohokare remarked that up to 1900 very few Indians had been taken; between 1900 and 1910 a few had been taken; between 1910 and 1914 a number of Indians had got in through the competitive examination; and he argued that that was responsible for the discontinuance of the competitive examination. He deprecated racial discrimination and saw no reason why Indian doctors were debarred from treating Indian soldiers. Mr. Lohokare complained that only a few of the Indians who had been given temporary commissions had been made permanent, and that Indian officers in the service were very badly treated. He did not mind Government recruiting a separate European service for Europeans and imposing the highest standard for the purpose; but he protested against the continuance of a system which would shut the door against the best talent in the country by admitting men through the back door. Mr. Burdon remarked that a great deal of the mover's speech was irrelevant with which he did not propose to deal. He made a statement of the position of Government and hoped that it would limit the discussion to relevant channels and lead to an elucidation of the position. The position of Government, Mr. Burdon said, was that they did not wish to oppose the Resolution if their opposition was to be construed as a final expression of their opinion in regard to the method of recruitment to be adopted for the I. M. S. as it was to be constituted in the future. On the other hand, it was impracticable for them to accept the Resolution; for neither Government nor the House possessed the data on which alone a final conclusion could properly be based. Dealing with the

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recommendations of the Lee Commission, Mr. Burdon said that the Government of India and the Secretary of State had approved in general the principle of the constitution of a Provincial Medical Service and decided against a unified military service which was in accordance with the wishes of the Assembly as expressed in September 1914. Very important questions were still outstanding which had an important bearing on the recruitment for the I. M. S., *e.g.*, they did not know the strength of the war reserve, the status, pay, etc., of the appointments which would be filled by officers lent to the civil side. Mr. Burdon thought that it would be a reversal of the natural order of things to decide upon the avenues of recruitment before the essential terms and conditions of service had been ascertained. Simultaneous examinations would depend upon the composition of the service, which was at present unknown. Government did not pronounce against it now and had never done so. At the proper time the subject would receive their very careful attention, and the views of the Assembly would receive the greatest consideration; but for the present Government must maintain an open mind. Proceeding, the Secretary in the Army Department dealt with the history of Indian recruitment and showed that owing to the absence of suitable candidates during the war, the competitive examination for the I. M. S. had had to be abandoned, and the same influence had continued with the added uncertainty as to the future of the service. He discussed the present system of nomination by the Selection Board in India and in England and said that as soon as conditions permitted it, they would like to revert to the most suitable avenue of recruitment, namely, competitive examination. In regard to the position of Indians in the I.M.S., Mr. Burdon said that under the system of nomination 133 permanent commissions had been granted to Europeans and 119 to Indians. In military employment at the present moment they had 195 British and 79 Indian regular officers. In addition, they had 149 temporary officers, of whom 146 were Indians. "I think it will be admitted," said Mr. Burdon, "that India can find little to complain of in the very significant figures which I have given; and I must add that I repudiate, as strongly as I possibly can, the suggestion that any of the Indian officers or that the Indian officers as a class who were recruited under the system of nomination and are now serving under His Excellency the Commander-in-Chief have proved to be inefficient or unsatisfactory." Mr. Burdon doubted whether simultaneous examination which had been applied to the civil service would suit the I.M.S., and in this connection he referred to the difference between the standards in England and in India as disclosed by the number of Indian students who went to England to study medicine. The standards to be applied in both countries would have to be considered because the existence of two standards would prejudice the solidarity of the service and affect its credit. Mr. Burdon referred to some other difficulties in detail and asked the House not to minimise them. Sir Sivaswamy Aiyer said that he was glad that Government did not oppose the Resolution and he expressed his satisfaction with the full and frank statement Mr. Burdon had made. He regarded the proposal under the Resolution as very modest and reasonable and urged that so long as the I. M. S. continued, Indians should be as much eligible as Englishmen. He expressed the hope that Government would recommend a liberal percentage of recruitment in India, and though he recognized that there were difficulties in the simultaneous examination, he did not regard them as insuperable. Colonel Needham

saw no particular reason to object to the first part of the Resolution because recruitment by competitive examination was merely in abeyance till settled conditions had been restored. He strongly defended the system of nomination and said that no complaints had been made against it. The second part of the Resolution, Colonel Needham thought, introduced a new feature so far as admission to the service which demanded a practical examination was concerned. Two sets of examiners would be required to conduct the *vivâ voce* examination and it was a very difficult matter to assess marks. He inquired how the actual merit of each candidate could be determined if two different sets of examiners conducted the *vivâ voce* examination. Moreover, he said, Indian medical officers desired only one portal of entrance and separate examinations might give rise to a feeling that European and Indian candidates were not on an equal footing—a feeling which would be most undesirable. Dr. Datta in supporting the amendment went through the history of the recruitment to the I. M. S. and through the recommendations of the Verney-Lovett Committee, the Esher Committee and the Lee Commission. He regretted that no definite orders had been passed because, he said, of the attitude of the British Medical Association, which was a strong trade union. Dr. Datta inquired as to what was the policy with regard to the I. M. S. and urged on the Government of India and the Secretary of State the need for an early announcement. To meet Colonel Needham's objection, he suggested that an examination might be held in England and another, six months later, in India. Mr. Rangachariar inquired why the Secretary of State was not coming to a decision, why the practical examination for the I. M. S. could not be held when practical examinations in science were held for I. C. S. candidates in India, and finally whether the difficulties could not be solved. Dr. Lohokare asked the Government to come to terms with non-officials and not to follw a system which took Europeans and excluded the better qualified Indians. Mr. Burdon in his reply repeated the statement he had made on behalf of Government. Answering Mr. Rangachariar's inquiries, Mr. Burdon said that the proposals had not been very long before the Secretary of State and denied that there was any simultaneous examination of a practical character in force in regard to the other services which could in any sense be comparable with the practical examination for the I. M. S. He promised to bring the report of the debate prominently to the notice of the Secretary of State. The motion was put to the vote and carried by 56 votes against 42.

Grievances of Post Masters.

The larger questions mentioned above did not exclude the consideration of what might be regarded as matters of lesser importance on the ground that they only related to particular departments or services. On the 1st September Srijut Chandradhar Barua moved a Resolution in the Council of State asking for a committee consisting of officials and non-officials of both Houses of the Legislature and a representative of postmasters to inquire into the grievances of postmasters including those in the grade of Rs. 145—170 in India and Burma, regarding their pay, status, etc., and to suggest means as to how to improve them. Mr. Khaparde supported the Resolution. Mr. Parsons referred to the Resolution of a wider scope but embracing all the points contained in Mr. Barua's motion which had come up in the Assembly in February last and the discussion on which had been adjourned on the understanding that the Member for Industries

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and Labour and the Director General Posts and Telegraphs would receive a deputation thoroughly representative of the employees of the Post Office and go into all their grievances. The deputation had since been received and had expressed its thanks for the patient hearing the Member for Industries and Labour and the Director General had given it. Mr. Parsons added that a good many of the grievances had already been examined, and it was no exaggeration to say that almost every day he was considering one or other of the questions involved. While these grievances were being investigated with all the expedition possible by the responsible Department and by the Member in charge of it, Mr. Parsons was not in a position to discuss the individual cases which had been mentioned by Mr. Barua. Mr. Parsons was prepared to give an assurance that every thing which Mr. Barua had said would be gone through extremely carefully and that they would examine departmentally the grievances that he might have put forward in exactly the same way as the grievances represented by the deputation were being examined. He advised the mover to withdraw the Resolution and expressed the hope that the House would not be asked to vote on the Resolution while Government were actually engaged in examining as sympathetically as possible the various questions it raised. Sir Deva Prasad Sarvadhikary supported Mr. Parsons's plea, and Mr. Barua, after expressing his thanks to Government, asked for leave to withdraw the Resolution. The Resolution was withdrawn. Even the pieceworkers in the Government of India Presses came under the notice of the Council of State. On the 25th August Mr. Khaparde moved a Resolution asking for a committee of official and non-official Members of both Houses of the Indian Legislature to determine the effect of the changes which had been introduced in consequence of the Report of the Committee appointed in 1921 in the interests of the pieceworkers in the Government of India Presses. Mr. Parsons went through the various recommendations which that Committee had made and showed what changes had been introduced and what their effect had been. He claimed that Government had done all that they should have done for the pieceworkers. As the Committee of 1921 had found, there had been an almost invariable decrease in the actual hours of work and an invariable increase in the average earnings of each class, and that being the case, there was no ground for holding the inquiry. Mr. Parsons had made such inquiries as he could and had been assured that the men were contented. Mr. Karandhikar supported the Resolution. When put to the vote, the Resolution was lost by 21 votes against 17.

Pieceworkers in Government Presses.

The position of Indians abroad in which the Indian Legislature has always taken a considerable interest did not go unnoticed during the last session. Reference has been made to the manner in which it had formed the subject of interpellations and on one occasion on a private question by Mr. Jinnah on the position of Indians in South Africa a series of supplementaries were put which, with the answers given, occupy nearly seven pages of the printed proceedings. On the 10th September 1925 the matter was raised in the Council of State in a Resolution moved by Sir Deva prasad Sarvadhikary in the following terms:—

Indians in South Africa.

"This Council recommends to the Governor General in Council that in connection with the recent *anti*-Indian legislation and with the Bill now impending

before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa."

The speaker said that those who knew anything of the situation must accord their gratitude to all the Viceroys from Lord Hardinge downwards, including Lord Reading, everyone of whom had done all that lay in his power to advance the cause of Indians in South Africa and, as far as possible, to protect them. Sir Deva Prasad said that he wanted to strengthen the hands of the Government of India in a way that it would induce the Colonial Office and the Cabinet to afford them the assistance and support to which they were entitled. He referred to the Bill which had been recently introduced in South Africa to make provision for the reservation of residential and trading areas in urban areas for certain persons having a racial characteristic in common. He said that that Bill aimed at reducing the Indian population in South Africa to an irreducible minimum. The Indian population there was nearly a lakh and three quarters, of whom more than 60 per cent. had been born in South Africa and their ancestors had not gone there voluntarily but had started as indentured labourers and had manured the soil with the dust of their bones. The door for negotiations and representations being still open, Sir Deva Prasad thought, the Council ought to do all it could to assist the Government and strengthen their hands in their endeavour to bring about a better state of things which, it was believed, would be possible in the not unlikely event of a change in the Government of South Africa. The Indian population being what it was could not be a menace to the South African people and it was impossible to believe that such an opportunity as Indians had they would utilize in any manner prejudicial to the interests of the South Africans. The exclusion of Indians could not be justified on political, social or even economic grounds and Sir Deva Prasad saw no reason for the attitude the South African Government was taking up. Mr. Natesan, in supporting the motion, remarked that after the Class Areas Bill, on which a Resolution was moved in the Council of State in March 1924, had been dropped, they were faced with a Bill of a similar character but with more drastic provisions. The immediate effect of this Bill would be that it would provide for allocating residential and trading areas within which only Indians might buy and lease property. In rural districts Indians would be confined to 30 miles from the coast line wherein the areas might be defined. The result would be that thousands of Indian business firms must cease on the expiry of the present leases. It would be compulsory segregation and deliberate deprivation of Indians' property with the ultimate aim, it was apparent, of repatriation with confiscation. The right of *bonâ fide* Indians to enter the Union would be seriously jeopardised and many provisions in the Bill would enable Indians to be declared prohibited immigrants. The rights of domicile would be practically forfeited and the wives and children of domiciled Indians would not be able to enter the Union after 5 years from August 1925. "A South African born Indian domiciled in one province must return to the province of his birth and there also into segregated areas. Indians born here could also be declared prohibited immigrants unsuitable to the requirements of the Union. Such prohibited Indians will lose all property and vested rights in the Union and be driven away." Mr. Natesan asserted, that "The Bill was a direct violation of the Smuts-Gandhi agreement under which Mr. Gandhi on behalf of the Indians had agreed to give up the right of unrestricted immigration on the understanding

that the rights of the people already there should not be interfered with and no legislation, in any way calculated to take away the rights of the people there, should be undertaken." Mr. Natesan strongly opposed the idea of repatriation and said that it would be suicidal to the best interests of the people if they were light-heartedly to talk of their repatriation to India. As for retaliation, no responsible Indian politician could talk of it without making a very careful examination of all the facts of the case. The speaker appealed to the Government of India to give all possible facilities to the Indian deputation which might shortly come over to India, as from that body Government could ascertain what exactly was the situation in South Africa. He further asked the Government if they could depute some persons from India, official or non-official, to see whether they could not persuade the Union Government to hear their case. Mr. R. P. Karandhikar moved the following amendment:—

"With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provision) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges."

Colonel Nawab Sir Umar Hayat Khan said that whenever a Resolution of this kind had been brought forward Government had expressed their readiness to do what they could. But what could the Government do? And, if they had not been able to do much hitherto, he saw no prospect of their doing more in the future. He supported the idea of repatriation. Mr. Ramadas Pantulu wished to add the following words to Sir Deva Prasad Sarvadhikary's Resolution:—"and to ascertain the condition and the views of the Indians in South Africa." Mr. K. C. Roy said that Mr. Amery had not repudiated Mr. Thomas's suggestion for a Round Table Conference and he assumed that the British Government was committed to the idea of having such a Conference in order to safeguard and protect the interests of Indians in South Africa. Mr. Roy said that this was a clear case for intervention and it was time that His Majesty's Government should seriously take into consideration the grievances of Indians in South Africa. He supported the demand for a Round Table Conference. Mian Sir Fazl-i-Husain, speaking on behalf of Government, said: "Well, Sir, it is no use pretending that with a little ingenuity it is possible to solve this extremely difficult problem. And when one sees measure after measure adopted to the prejudice of the Indians in South Africa, in spite of the efforts that the Government of India have been able to put forward on their behalf, I venture to think that there is justification for Indians in India and Indians in South Africa to feel that the problem is altogether hopeless. And yet the proverbial patience of the Orient ought to come to our aid. There are not many rays of hope, but there are still, I feel a few faint ones." The Member for Education, Health and Lands remarked that it did credit to India's cause in this struggle that all Indians, including Europeans in India, were united in the matter; it had been conclusively established how well His Excellency the Viceroy had appreciated the Indian point of view and the Imperial point of view in the struggle and the Government of India had definitely adopted a very clear and simple policy. "There is nothing that an Indian publicist could suggest for the benefit of Indians in South Africa," said Sir Fazl-i-Husain, "that the Government of India are not prepared to do, provided it is

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within their competence to do it." Dealing with Mr. Karandhikar's amendment, Sir Fazl-i-Husain said that the Government had already taken steps to have the provisions of the Bill scrutinised and had informed the South African Government that a detailed representation on the objectionable items in the Bill would be submitted to them. The Government of India had already intimated to the President of the Indian Congress that if their deputation materialised they would be very pleased to see it. The Government were also contemplating what further steps could be taken to ascertain the condition and the views of the Indians in South Africa, to find out the conditions under which they were living and to study the position with a view to rendering assistance to them and to the Government under which they were living. Nothing that could be done to help the cause of Indians in South Africa would be left undone. Both Mr. Karandhikar's and Mr. Ramadas Pantulu's amendments were accepted and the Resolution, as amended, was adopted in the following form:—

"This Council recommends to the Governor General in Council that in connection with the recent *anti*-Indian legislation and with the Bill now impending before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa. *With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provisions) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges and to ascertain the condition and the views of the Indians in South Africa.*"

The interest which the Indian Legislature takes in the moral and material welfare of the people was continued. The former manifested itself in two Resolutions, one moved in the Council of State regarding the restriction of opium cultivation and the other in the Assembly on the prohibition of import, manufacture and sale of liquor. The latter, as will be noticed later, was responsible for a number of Resolutions dealing with some of the industries and the forms in which they can be helped forward. Whatever the reason—the association of a large number of prominent business men with the present Assembly, a greater realization of the needs of the country, or the growing recognition of the importance of industries, the fact remains that industrial subjects are beginning to loom larger and larger in the discussions of the Central Legislature. Taking first the moral welfare of the people, mention might be made here of the two Resolutions which fall under this head. On the 1st September 1925 Sir Deva Prasad Sarvadhikary moved the following Resolution in the Council of State:

"This Council recommends to the Governor General in Council that—

(*i*) the area for cultivation of opium be restricted and brought under stricter control; and

(*ii*) the practice of making advances to opium cultivators be discontinued with effect from the next season for making advances and that this be notified in advance as soon as possible."

Restriction of Cultivation of opium.

He recognized that Government had been studiously helpful in meeting the growing point of view of those who thought that the opium policy of the Government of India must undergo a change in line with growing public opinion and International demands. Recent telegrams from Geneva, Sir Deva Prasad acknowledged, showed that the claim put for-

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ward on behalf of Government in this respect had been conceded by representative Internationals, although doubt still continued to exist as to whether the quantity of production could not profitably be reduced and whether serious and material reduction could not be effected. Mr. Yamin Khan opposed the Resolution; he considered the first part as superfluous because the area under cultivation was already under control; and the other portion of the Resolution, if given effect to, would absolutely abolish the cultivation. Mr. A. C. McWatters said that the Resolution divided itself into three parts, namely, the retsriction of the area of cultivation, increased control and the discontinuance of the system of making advances. As regards the first, Government had had to take into account not only the probable reduction of their export trade and the progressive reduction of internal consumption but also the question of their stocks. Seven years ago in the United Provinces, which was practically the only important area in British India where opium was cultivated, the area under cultivation exceeded 200,000 acres. In 1922-23 that area had been reduced to 141,000 acres; in 1923-24 to 134,000 acres; in the current year to 116,000 acres; and in 1925-26 it had been arranged to cultivate only 74,000 acres. Thus, in seven years the area had been reduced to a little over one-third. The Secretary in the Finance Department said that it was the result not only of Government's policy but of the fact that in the last two years they had had an exceptionally large outturn in the opium fields. Moreover, out of 37 divisions or subdivisions in the United Provinces 9 had already been abolished and it was contemplated to close down several more in the near future with the sole object of getting the cultivation more concentrated and more under Government's control. With regard to the small areas in the Punjab, the Local Government was considering the question of further restrictions and control. As regards the price paid to the cultivator, it had been reduced last year from Rs. 15 to Rs. 13 and further reduction was contemplated. There was another area from which considerable supplies were obtained, namely, the Malwa States, and Government had carefully reconsidered their engagements with the Indian States concerned and had been able to reduce the amount for which they had contracted from 11,400 maunds in the current year to 6,500 maunds for the next year. So far as consumption in India was concerned, the Central Government had no financial interest in the opium supplied to the provinces and Mr. McWatters took the view that the proper line of action was for them to co-operate with Local Governments in putting down abuses of opium and Government had been pursuing that policy in consultation with Local Governments. In the matter of exports, substantial financial sacrifices had been made and the average annual income of the Central Government from opium, which was over 8 crores of rupees in the three years before 1913, had, according to the preliminary actuals of last year, fallen to 1 crore and 42 lakhs. Before pushing those sacrifices further Government were entitled to endeavour to ensure that their efforts were not wasted and that the policy adopted was one which really brought to an end any abuses of opium eating or smoking that might exist and not merely result in the opium from India being replaced by opium from other countries. Government had for some years past adopted a system of allowing export only under the certificate system; they either sold direct to foreign Governments under different agreements or allowed export on a certificate. It might have been a possible line to stop there and say that the importing country was responsible, but Government had

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gone further in two instances, namely, Macao and Persia. They had themselves taken the initiative and stopped export although opium was desired by those countries. " They are anxious to show to the world," said Mr. McWatters, " that they are prepared to fulfil their obligations in the spirit and not merely in letter. Therefore, I have the full authority of Government to tell the House that the Government of India are now prepared to accept some measure of responsibility even for licit exports covered by certificates. That is to say, they are prepared to prohibit or restrict export even where foreign Governments are prepared to furnish a certificate, if there is evidence that the opium is finding its way into the illicit trade." On the question of control Mr. McWatters quoted Miss. Eileen de la Motte who had said that " every step relating to the control and output was carefully and systematically regulated and had been brought to the highest pitch of efficiency, a model and example to the rest of the world." After detailing the various stages of control and mentioning how the restrictions had been made more and more stringent, Mr. McWatters said that at Geneva they had recently agreed that they would allow an independent committee of the League of Nations to visit India, as it would visit other signatory countries, after 5 years, in order to examine their system of control and to assure themselves that it was absolutely watertight. The advances to cultivators had come down from the days of the Mughal Emperors and even prior to 1764 references to them were to be found. The Secretary in the Finance Department claimed that it was especially suitable where there was a crop which required more than the usual amount of preparation of the soil and where there was a single purchaser who required an assured outturn. The system of advances had been resorted to for such crops as opium, sugar and indigo. It ensured Government having a much closer control over the area cultivated and it kept the cultivator out of the hands of the money-lenders. The only result of the abolition of the advances would be that Government would have to offer a higher price and would be paying a portion of the money-lender's profits, which would be a retrograde step. He advised the mover not to press the Resolution. Dr. Dwarkanath Mitter was prepared to support the first part of the Resolution but with regard to the second he felt some difficulty because the practice had been in existence from very ancient times. Mr. K. C. Roy moved the adjournment of the debate on the Resolution till the next cold weather session. Sir Maneckji Dadabhoy said that Mr. McWatters had so graphically and clearly explained the policy of the Government of India and had given such convincing reasons why the advances had been made that he considered the Resolution entirely unnecessary and thought that no useful purpose would be served by adopting the course suggested in Mr. K. C. Roy's amendment. Major Nawab Mohamed Akbar Khan also advised the mover to withdraw his Resolution and to do something in the way of starting an anti-opium campaign. Srijut Chandradhar Borooah supported Sir Deva Prasad Sarvadhikary's Resolution. Sir Dinshaw Wacha advised the House to rely on the assurance given by the Secretary in the Finance Department that the Government would steadily pursue the policy. He objected to the debate being unnecessarily prolonged and hoped that Sir Deva Prasad Sarvadhikary would withdraw the Resolution. Sir Deva Prasad withdrew the second part of his Resolution but pressed the first to a division. It was, however, lost by 29 votes against 11.

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On the 2nd September 1925 further discussion on the following resolution of Haji Wajihuddin which had been moved in the Legislative Assembly on the 5th February 1925 was resumed.

"This Assembly recommends to the Governor General in Council that legislation be undertaken prohibiting the import, manufacture, sale and use of all sorts of liquors in India and in the meantime he be pleased to direct the local administrations under his control and convey the opinion of this Assembly to all other Provincial Governments that they should take steps forthwith to grant to the local bodies within their jurisdiction the right to determine the number and location of liquor shops within their respective areas."

Prohibition of import, manufacture, sale and use of liquors.

Maulvi Muhammad Yakub in supporting the resolution said that apart from religious sentiment, the amelioration and betterment of the conditions of the people of the country demanded that legislation indicated in the resolution should, as soon as possible, be undertaken. Since the resolution was moved in February many communications in its support had been received, no less than a hundred Indian vernacular newspapers had approved of it and many associations in different parts of India had passed resolutions supporting it.

Dr. S. K. Datta moved the following amendment:—

"That for the original Resolution the following be substituted:

'This Assembly recommends to the Governor General in Council that he be pleased to accept as the policy of the Government the ultimate prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes. It further recommends that as the first steps in carrying out this policy (*a*) that the import of spirituous liquors into India be more rigidly controlled, (*b*) that Provincial Governments be urged to undertake legislation whereby the control of the sale of spirituous liquors will be vested in Local Bodies, Licensing Boards elected on a popular franchise or be regulated by a system of local option wherever possible'."

He was for going slow and not for total immediate prohibition. He did not believe that there was any case on either religious or the highest ethical grounds and he limited his plea to medical and economic considerations. The use of alcohol in small quantities led to the reduction of skill and larger quantities were definitely injurious resulting in insanity and criminality. The revenue from alcohol and drugs in India, Dr. Datta remarked, was one of the principal heads of revenue of the Government and stood between one-seventh and one-eighth of the total revenue. He believed that a policy of restriction would result in freeing an enormous amount of the population from taxation from which they got nothing in return. Liquor interests in the United Kingdom and America had been among the most harmful; over and over again reform had been blocked by the action of the liquor interest; and Dr. Dutta desired that before these interests became established in this country they should bring them absolutely under control. Prohibition had not come in a day but it had been established in America, and other countries, of which New Zealand was the latest example, were working towards it. In Australia the tendency was towards prohibition. But prohibition of alcoholic liquor could not be had in any country without first controlling the traffic in drugs. Dr. Datta added that though there had been a reduction under beers and ale and wines, spirits showed a tendency to rise and the imports had risen from 1,665,000 gallons in 1914 to 1,666,000 gallons in 1923-24. Ultimate prohibition was the goal towards which Dr. Datta aimed, but he felt that they ought to go slowly feeling every step as they went along that path.

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Mr. N. C. Kelkar moved the following amendment:—

"That for the original Resolution the following be substituted:

'This Assembly recommends to the Governor General in Council that he be pleased to accept as the ultimate policy of the Government the prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes. It further recommends that as the first step in carrying out this policy the Provincial Governments be directed immediately (*i*) to inaugurate a policy of vesting the power of fixing, by a system of local option, the location and number of shops selling intoxicating liquors in either local self-governing bodies or licensing Boards specially constituted for the purpose and elected on a popular franchise, and (*ii*) to undertake necessary legislation in furtherance of that policy'."

He thought that the original resolution was defective inasmuch as it did not refer to medicinal needs. Temperance was not moderation but tee-totalism. Local option was no tyranny but would save the majority from the minority. Mr. Kelkar urged that if Government could trust voters with responsible government, he saw no reason why they should not trust them with the liberty to determine the location of liquor shops. Colonel Crawford emphasised the fact that both European and Indian members had the same motive at heart. He considered it an exaggeration to say that liquor led to crime. Taken in moderation it was harmless and in some cases even beneficial. Their object, Colonel Crawford thought, should be to limit the evil arising from the immoderate use of alcohol; but prohibition would be perfectly useless in this direction, because it would lead to illicit traffic, to the use of dangerous drugs, to contempt of authority and to the tyranny of the petty official over individuals. The proper policy should be one of control. If it was argued that prohibition led to economic efficiency, Col. Crawford inquired if anyone could claim that the nations which were prohibited by their religion from the use of alcohol showed greater efficiency than those whose religion did not. If prohibition was wrong, local option was also wrong. Government had no moral right to interfere with the individual in such matters. Mr. Jamnadas Mehta quoted from "The case for Prohibition" by Ben H. Spence of Toronto, Canada, who had quoted N. B. Wheeler, what improvements had been effected as a result of prohibition in America and stated on the authority of Mr. Henry Ford that, as a result of it, less accidents had occurred during the last 4 years. Mr. Mehta assured the House that both Hindus and Muhammadans were by religion and tradition prevented from drinking and it was one of the worst effects of foreign Government that in a country where tradition, religion and sentiment had prevented liquor, 20 crores of revenue was produced from this source. If the administration could not be carried on without this money, then that administration ought to go out of the country. Mr. Mehta wanted the police to go more after those who resorted to illicit distillation than after the politically-minded. Sir Purshotamdas Thakurdas supported Mr. Kelkar's amendment. He said that in a case where both Hindu and Muhammadan wishes met, the proper course for the Government was to meet the wishes of the people. Sir Purshotamdas did not contest Col. Crawford's statement that moderate use of liquor was beneficial but he doubted how in the present state of the education of the people excess could be prevented. The manner of the location of liquor shops supported the view that the policy of the Government was to increase the revenue. In view of the climatic conditions, religious tenets and the state of education in India, the use of liquor was not suitable and Sir Purshotamdas urged upon the Government the duty of placing the poor beyond

temptation. He hoped that too much stress would not be laid by Government on the financial aspect and a Government which had spent a good deal of money on China should not hesitate to adopt a measure which would benefit the children of the soil. The Finance member refused to approach the problem for a moment mainly from the point of view of finance or with any considerable bias in favour of revenues from excise duty. He asked the House to consider that there was absolute unanimity on the main proposition that every effort should be made by the Government of India to combat any abuse of alcoholic liquor, that their policy should be directed to securing that India should remain free from any of those habits of intemperance by the use of alcoholic liquor which had in the past been a noticeable feature in the life of some of the Western countries. Where they were not agreed was as to the ultimate goal and the Finance member regretted the impossibility of his accepting anything in the nature of a commitment by the Government to a statement that the ultimate goal of policy should be prohibition. Their policy was one of temperance in the strict sense of the word. It was perfectly true that the receipts, including provincial receipts, from excise and customs on alcoholic liquor had very considerably increased in recent years, but the Finance Member asserted that that was precisely because the policy of the Government had been "one of maximum revenue and minimum consumption." One of the difficulties in regard to the statistics of consumption of alcohol was that for the last half a century there had been a continuous transfer from the "outstill system to the system of Government distilleries," and there was not the least doubt that under the old system there were considerable lacunae in the figures of consumption of alcoholic liquor. There was more country spirit produced and consumed than the figures showed because control was less perfect. Since the transfer to the distillery system, the figures of consumption had been very much nearer the actual facts and one would naturally expect that merely by inclusion in those statistics of a certain amount of consumption which was previously excluded, there would be visible an increase in consumption. In 1883-84 the percentage of the total population of areas served by outstills was 53; by 1903-04 it had been reduced to 35 per cent.; by 1912-13 to 7·49 per cent. and it now stood at 2·74 per cent. The number of shops per 100,000 of the population had fallen between 1883-84 and 1903-04 by 30 per cent. and had been reduced to 6·77 as against a figure of 15 in 1903-04 and something over 20 in 1883-84. Coming to consumption of country spirit, in 1883-84 it was nearly 5 gallons per head of the population; in 1903 it was over 4 gallons; in 1924 it was 2·68 gallons; it had been almost exactly halved in the last 40 years. This consumption of 2·68 gallons per 100 of the population compared with the figures of 15·33 gallons in Ceylon, 30 gallons in England and Wales and 58 gallons in Scotland. The average consumption had fallen by 36 per cent. in the last 12 years. In 1921 it was 10,215,212 proof gallons; in 1923-24 6,626,875 proof gallons. "That is much less than two-third and approaches nearly one half of the figures of 12 years before." The Finance Member said that Dr. Datta had fallen into an error in giving the figures of imports of spirits as those spirits included perfumed and denatured spirits. Wines had been reduced from 102,488 to 67,601 proof gallons in 1923-24. The total, including ale and cider, was 1,738,385 proof gallons in 1912 and 1,246,232 proof gallons in 1923—a reduction of about 28 per cent. "I maintain, therefore," said the Finance

Member, " that the statistics show that the policy of the Government has been very distinctly effective in securing a very remarkable reduction in the total quantity of alcoholic liquors, either imported or country made, consumed in India. The fact that revenue has gone up is not, I think, really germane. It is only a proof of the success of our policy, which, I believe, is the only effective policy that you can pursue of attempting to get the maximum revenue from the minimum of consumption." Proceeding the Finance Member said that the duties were already so high that there was considerable danger of illicit production and to raise them higher might decrease the total revenue from alcohol and at the same time it was certain to increase the total consumption in India " owing to the inevitable increase in illicit distillation." However much the Assembly might desire to prevent altogether the use of alcohol for other than scientific and medical purposes, the Finance Member thought that a policy of complete prohibition was entirely out of the question in the present circumstances of the country and would be contrary to the highest principles of ethics. None of those who had supported the motion really believed that that policy could be put into practical effect within this generation or probably within the next. Why then, the Finance Member asked, " should we commit ourselves now to a policy of ultimate prohibition." The Finance Member quoted Abraham Lincoln's opposition to prohibition and brought forward evidence to show that the policy of prohibition, unless circumstances were extraordinarily favourable, would lead to a great many very undesirable results. " It has become a serious menace to the whole fabric of law and order in certain parts of the United States; it has led to corruption among the Federal Agents, a considerable amount of actual man-slaughter, and a general lowering of the standard of respect for law and order among the citizens." It had been the experience of a good many countries which had introduced prohibition that they had tried it in all good faith and had deliberately rejected it and come back to a form of the policy of maximum revenue, maximum control and minimum consumption. It was not for the Government of India to give directions to provincial Governments as to what their action in legislating in regard to transferred subjects should be, but the Finance Member was inclined to agree that if a policy of local option or prohibition was to be attempted by Local Governments with any very great vigour the Government of India would not be able merely to look on. One of the clear lessons of America's experiments in prohibition and local option was " that local option and local prohibition involved even greater difficulties than complete prohibition." The Finance Member asked the House not to forget that there were boundaries all over India between British India and the Indian States and the problem seemed almost insoluble as to how, if prohibition were introduced legally in a province, it could be enforced with so many international boundaries between that province and the neighbouring Indian State or States included within the area of the province. The proposals included in the amendments, the Finance Member said, involved a recommendation to take action which either constitutionally was not within the province of the Government of India or which needed to be very much more carefully considered before it was adopted as a practical proposition. The steps which were already being taken by the Government of India were, the Finance Member thought, the best he knew of; and he suggested that the House should pass an amendment to which Government could agree.

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If such an amendment was passed, the Finance Member promised that Government would re-examine the whole question and see whether within the area within which the Government of India were directly responsible any further steps could be taken, and it would involve a recommendation to the provincial Governments generally which, the Finance Member gathered, was one of the objects with which the resolution had been moved. He could neither support the resolution nor the amendments and appealed to the House to take a practical view of the whole matter.

Dr. Datta withdrew his amendment and Haji Wajihuddin accepted Mr. Kelkar's amendment, which was put to the vote and carried by 69 votes against 39.

The resolutions connected with industries related to the position of the cotton mill industry recommended bounties on steel and on wagons and protection to certain forms of paper industry and asked for a reduction, under certain conditions, on the freight on coal.

On the 3rd September 1925 Mr. Haroon Jaffer was to have moved a resolution in the Council of State asking for an immediate inquiry into the condition of the Indian cotton mill industry and into remedies for its amelioration. Shortly before that a deputation had waited on His Excellency the Viceroy and Mr. Haroon Jaffer stated that the offer of an inquiry made by His Excellency was under the consideration of the mill-owners. He did not therefore, desire to complicate matters unnecessarily by proceeding with his resolution and asked for leave to withdraw it. The resolution was by leave withdrawn.

Cotton Mill Industry.

On the 16th September the position of the Indian textile industry came up when Sir Purshotamdas Thakurdas moved:—

"That this Assembly recommends to the Governor General in Council to be pleased to forthwith suspend the collection of the cotton excise duty for the rest of the current year 1925-26 in view of the critical stage of the Indian textile industry as at present prevailing."

Sir Purshotamdas Thakurdas referred to the fact that the grant relating to the expenses for the collection of the excise duty which had been rejected in March last by the Legislative Assembly had been restored by the Governor General and the idea which had led them to refuse the grant also underlay the motion he was moving. Those who had asked in March last for the abolition of the excise duty had shown considerable foresight. It was then contended that only mills in Bombay were either losing or just making both ends meet. The crisis which had been foreseen in Bombay had also travelled to Ahmedabad; and even Cawnpore and Madras would soon feel the pinch. Sir Purshotamdas understood the Viceroy to have said in the course of his reply to the deputation that India was producing more than before the war and that had led to the present difficulty. Sir Purshotamdas said that before the war 45 to 48 per cent. of the total consumption of cloth was manufactured in India. But at the present time they were still very far from anything like 75 or 80 per cent. of the requirements of India which they ought to have been able to produce. Sir Purshotamdas was disappointed "that His Excellency the Viceroy should have thought that the blame for the present crisis should be that we are progressing in the direction of making India self-reliant and independent of imports from outside."

Suspension of Cotton Excise duty.

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Sir Purshotamdas appreciated the anxiety of the Viceroy to ensure that the relief available should not be half-hearted. But he could not understand why His Excellency had desisted from agreeing to the request of the deputation to remit the cotton excise duty. Sir Purshotamdas thought that it was incumbent on the Government to take action in the middle of the year not only in the interests of those engaged in the industry but of the entire trade in those parts where the industry was the most important occupation of the citizens. In spite of three normal Monsoons the buying power of the people had been so much reduced that locally manufactured goods worth Rs. 12 crores were lying awaiting buyers in Bombay and Ahmedabad alone. The mills found that compared with the prices of cotton and with other charges they had to pay they could not make both ends meet and were dropping money. In Bombay 11,500 labourers had been thrown out of employ owing to 5 mills having closed down and when the 4 mills which had given notice of closing down were closed another 8,000 hands would be thrown out. In Ahmedabad 2 mills had closed down and 6 were reported to be on the market for sale. News had also been received of a strike in Bombay affecting 12 mills, which meant that nearly 12,000 more people would be out of employment. The Government of India, Sir Purshotamdas urged, must indeed have hearts of steel if even under these extremely difficult circumstances they found it difficult to move in the direction mentioned in the resolution. Prudence at this juncture dictated not that the Government should be over-cautious, but that they should extend their assistance. He did not think it right of the Finance Member to raise objection on the ground of finances when an industry of such acknowledged importance was in trouble. Concluding the speaker said that the Government of India were not free agents in the matter and that the excise duty was abolished in Egypt when a national Government had been established. If even at the present juncture the duty was not suspended in India, the conclusion one would come to would be that only a national Government in India would give the country what was its due. Mr. N. M. Dumasia supported the resolution and said that Government were attempting to draw water from a squeezed sponge and wanted to build up their foundations on the ruin of a national industry. That industry had supplied in the past golden eggs to the Government exchequer and Mr. Dumasia appealed to Government not to kill the milch cow. The excise was an admitted wrong and it was not heroic to persist in it. Dr. Macphail said that although his instincts were in support of the proposition of Sir Purshotamdas Thakurdas, he would not support the resolution with any enthusiasm unless he got some assurance that Madras would not be deprived of what it had so far expected to receive. Mr. Joshi expressed his approval of the resolution but not of the diagnosis of the situation which had been given by Sir Purshotamdas. He did not think that the duty was the sole cause of the trouble and he contended that the effects of competition with Japan had been exaggerated. The agency system was vicious and Mr. Joshi said that until recently most of the agents used to get a commission on production. Moreover Indianisation had not been fully carried out and the machinery was old. Over-capitalisation was also at the root of the trouble. War profits of about 30 crores had been scattered to no purpose and no training had been given to the ordinary worker. The incompetency of the mill-owners was borne from the way they had recently resorted to a reduction in wages. Mr. Joshi

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felt that the suspension of the excise duty would not be a cure for the present situation and advocated an inquiry into the situation itself. Sir Basil Blackett replying to the debate said that the suspension of the excise duty meant " nothing else than abolition of the excise duty as from now:" and he saw no possible distinction between suspension and abolition. If Government accepted the resolution, for the rest of the financial year the duty would not be collected. But it would be part of the hypothesis that the collection would begin again on the 1st April 1926. An important objection to this course would be that Government would have a staff costing annually about Rs. 70,000 to Rs. 80,000 which would be unemployed for six months. The loss in the current year of duty would be between Rs. 80 and Rs. 90 lakhs. The duty was payable at the moment of issue from the mill and the mill-owners would take very great care that there were no stocks of any kind (Mr. Dumasia had stated that at present there were 12 crores worth of stores), unissued on the 1st April 1926. Government would therefore lose the duty not merely on the production before the 1st April but also on the whole of the amount now in stock, which would mean another Rs. 50 lakhs. Turning to the position of the mills, the Finance Member said that they were suffering among other things from over-production and their difficulty was to get rid of their stocks. The suspension of the duty with the prospect of its reimposition on April 1st would give them a direct incentive to produce as much as possible in the next six months and close down on the 1st of April. " Is that good for any industry " asked the Finance Member. Proceeding the Finance Member said that he could not find the money to give effect to the resolution except out of the budget of the year and he did not yet know how the year was going to turn out. They had had a fairly good monsoon, but the Finance Member saw no reason to modify in any large direction the estimate which had been made at the time the budget was introduced. On the figures before them, Government saw no reason to think that they should be safe in doing for the rest of the year without the amount of revenue which the suspension of cotton excise duty would involve. Quite apart from that suspension would mean that they would be trenching to the extent of nearly Rs. 50 lakhs on next year's revenue, while if the duty were not reimposed—and of course it could not be reimposed—on April 1st next, they would be short not merely of Rs. 50 lakhs only but of Rs. 2 crores of what they were at present entitled to count as part of their revenue. If, as some members hoped, exchange was to be at £0-1-4 next year, Government would have to start the budget with an apparent deficit of approximately Rs. 3½ crores, and the present was obviously not the moment when they could consider the abolition of the duty except in entire disregard of the financial situation and of the financial possibilities. If they once suspended it, Government could not conceivably, however serious their financial position might be short of real calamity, reimpose the duty next April. If Sir Purshotamdas meant anything by his motion which was really temporary, he was asking that the House should give a subsidy to the cotton mill industry, which would approximately amount to Rs. 130 or Rs. 140 lakhs, and the Finance Member did not believe that the situation was so grave as to require this heroic measure. The Finance Member held that if the emergency was such as to require that the industry should receive a subsidy the proper way to approach the question would be to ask the House for a direct vote. The indirect method which had been adopted would mean that the suspen-

sion of the excise duty would go to assist among others the mills in the Carnatic which were not suffering and one of whom had recently paid an *ad interim* dividend of 10 per cent. The mills in Cawnpore, which were not in trouble, would also benefit by the subsidy in this form. The situation in India, Sir Basil Blackett observed, was in no way comparable with that in Great Britain where a grave emergency which threatened the whole fabric of the industrial life of the country had arisen. Moreover, he did not think that the subsidy granted in Great Britain during the coal crisis was any sort of a precedent which India should be in a hurry to follow. Another objection to the resolution, the Finance Member urged, was that it was brought up in the middle of the year and both the Public Accounts Committee and the Standing Finance Committee had been setting their faces against any new financial proposals unless absolutely unavoidable, being made in the course of the year. The right time to come before the House and before Government in a matter like this was during the budget and it was a doctrine which the Finance Member thought was absolutely essential to the proper working of the Finance Department. Dealing with Sir Purshotamdas' contention that the tax originally represented only 3½ per cent. but had now become 8½ per cent. of production, the Finance Member said " He does not, I think, suggest, that the tax has increased beyond 3½ per cent. of the cost of production including raw material. It started by being 3½ per cent. and it is still 3½ per cent. of the cost including raw material. In so far as there is protection in the case of the cotton duties, exactly the same applied to the 11 per cent. import duty. The protection that the cotton mill industry gets in this country is 7½ per cent., and I have never heard them say that the protection has been doubled because prices have doubled." Turning to Sir Purshotamdas' contention that the buying power of the people had been enormously reduced, the Finance Member inquired as to how it was that they had last year imported 90 crores worth of precious metals; that did not show that the buying power was less, but that the people were unwilling to buy cotton goods owing to the high price of cotton. The Finance Member thought that it was unjust to regard cotton excise as a capital levy. It was, what it called itself, an excise duty. Originally it had been a countervailing duty but it was now an excise duty which did not in any way act as a countervailing duty as compared with the 11 per cent. duty on imports. The Finance Member reminded those who said that the cotton excise duty had no precedents of the fact that in the course of the year in the British budget an excise duty on artificial silk had been introduced which was exactly comparable to the excise duty in India with the exception that that was countervailing duty and the duty in India was not. " It is a tax which I think everyone in the House desires to see disappear " said the Finance Member " at the very earliest possible moment, because it has a very bad history. I yield to none in the desire to see it go at the earliest possible moment but it must, I think, go with reference to our financial position. It cannot go simply because there is temporary difficulty in the cotton mill industry." The suspension or abolition of the duty would be a very slight palliative and it was obvious that the difficulties were very much bigger and more serious. Turning to the suggestion for an examination into the industry the Finance Member said that the Viceroy had made the offer but no reply had yet been received. The proper time for the discussion, the Finance Member felt, would be in

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connection with next year's budget when the House could take all the facts of the case into consideration and if the mill-owners would by then have agreed to an inquiry into the industry, the situation in regard to the cotton mill industry might be better known to the House. Concluding the Finance Member repeated what he had said six months ago, " that the Secretary of State's attitude in regard to this matter is not in question. If the Government of India were of opinion that the time had come for abolition of the duty, there would be no question of any kind of intervention from London." He appealed to the House not to be led away by any other considerations than the one as to whether the moment had come at which they could completely get rid of this tax.

Mr. Kasturbhai Lalbhai said that the time for lip sympathy and pious hopes had gone and in the third successive year of depression in the textile trade when it was not in a position to draw on its past reserves, unless something was done immediately, the industry would receive a set back from which it might not be easy to recover. Sir Darcy Lindsay considered the situation dangerous and felt it very necessary that Government should extend a helping hand to this great national industry. He had been told that the immediate effect of a remission of the duty would be a reduction of three-fourths anna in the price of the cloth and he hoped that this would materially help sales and reduce stocks to normal conditions. When the House had given Rs. 18½ lakhs to the steel industry in the middle of the financial year, Sir Darcy saw no reason why it should treat the cotton mill industry differently. Sir Charles Innes said that there was all the difference in the world between giving a grant of Rs. 50 lakhs to a single firm and giving a suspension of taxation amounting to Rs. 100 lakhs to an industry which comprised well over 100 to 150 mills. The Commerce Member regarded as incorrect the statement that the suspension would make all the difference to the cotton mill industry and doubted whether it would even touch the fringe of the problem. He endorsed the Finance Member's remark that if the tax was suspended, it would not be practical politics to put it on again in March next. Government's sole point, the Commerce Member said, was " that before the House comes to this decision, they ought to have the issue properly before them and they should not be led away into giving a premature decision in favour of the abolition of the cotton excise." The Commerce Member did not see why the mill-owners referred Government to the Fiscal Commission and said that they would not have an inquiry until the cotton excise duty had been taken off. " Well, Sir," said Sir Charles, " If we remitted that question to the Tariff Board for inquiry, it will be no part of the Tariff Board's duty to decide or to advise us whether or not the cotton excise duty should be taken off. That is a decided question. It would not be reopened in any way at all. I cannot help wondering why the mill-owners always refuse that inquiry. We cannot remit the matter to the Tariff Board for inquiry unless the mill-owners apply." In his reply Sir Purshotamdas Thakurdas said that the reason why 90 crores of gold had been imported in India was to be found in the policy of the Finance Department of artificially cheapening gold in India and making it available to the masses at Rs. 21-6-0. The removal of the cotton excise duty was their birth-right and they were accordingly asking for it as the contingency was one similar to that of an outbreak of war. The Finance Member had hidden away crores of rupees and if the Government of India still hesitated to suspend the

cotton excise duty, it would mean that no relief would come from them. Sir Purshotamdas said that he could not claim to speak for the mill-owners but he felt that their disinclination to accept the Tariff Board's intervention was due to the suspicion that Imperial Preference might be forced on India and greater relief might, as a result of the inquiry, be given to Lancashire. Sir Purshotamdas thanked Sir Darcy Lindsay for his support and emphasised that on this question European and Indian commercial opinion was united. Sir Basil Blackett in the course of his reply said that one of the main reasons why Government had spoken about the Tariff Board inquiry in regard to the mill industry was that the mill-owners had asked Government for the imposition of a higher import duty on yarn and cloth below 30 counts on the ground of protection. Mill-owners did not desire an inquiry, probably, because they did not think that their case was one which would bear much investigation. The Finance Member repeated that the resolution really asked for the immediate abolition of the cotton excise duty. The motion was put to the vote and carried by 57 votes against 32.

On the 15th September 1925 Sir Charles Innes moved the following Resolution in the Legislative Assembly:—

"That this Assembly recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions:

(1) The bounty should be paid only to firms or companies manufacturing, mainly from pig-iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894.

(2) The bounty should be paid on steel ingots manufactured by such firms or companies, and the bounty should be paid at the rate of Rs. 12 a ton on 70 per cent. of the total weight of the ingots manufactured in each month.

(3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st of March 1926 should be 18½ lakhs and in the year commencing the 1st of April 1926 and ending the 31st of March 1927 should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs."

Bounty on Steel.

He reminded the House that in January he had proposed that bounties amounting to 50 lakhs of rupees should be given to the steel industry in the year beginning on the 1st of October last. He had then promised that the whole question would be re-examined by the Tariff Board during the summer and brought up again under the review of the Assembly during the present session. In pursuance of that promise the Tariff Board had examined the question and had recommended special assistance for the steel industry. In the proposal Government were making they had cut down to 60 lakhs the bountry of 90 lakhs recommended by the Tariff Board for the remaining period of the life of the Steel Protection Act. The Commerce Member said that the recommendation of the Tariff Board had come to him as a shock. In January the position of the steel industry in India was very serious and Government had deliberately come to the conclusion that the right course for them to take was to adopt a bold and generous measure. As a result of the action Government had taken they had succeeded in extricating the Tata Iron and Steel Company from that serious position. The position of the industry at present was very much better. The difficulty as regards the stocks which were hanging like a thunder cloud over the market in January was over because the stocks had been dissipated

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and the price of steel had been stabilised with the result that the calculations made in the Commerce Department showed a considerable increase in the consumption of steel in India. Again, in January enormous stocks of steel were held by the Tata Iron and Steel Company and these had now come down to normal; there were no more of those forced sales at ruinous prices which were such an embarrassment to the Company in the autumn of last year. There had also been a stoppage of the enormous flood of imports of steel into India and there were signs that the policy of protecting the steel industry was becoming effective. These were the reasons for which Sir Charles was surprised at the recommendation of the Tariff Board, though he recognised that those recommendations were perfectly logical. The Government of India had to look at the matter from rather a different point of view than the Tariff Board and he emphasised that in reducing the proposals of the Board they were not in any way weakening in their policy of protecting the steel industry. They had to take various considerations into account. In the first place, they had to safeguard themselves against any impression that they would guarantee the Tata Iron and Steel Company any particular price. In the next place, they had to remember that bounties were a very much more generous form of assistance than increase of duties and they were asking the House to pledge itself to a scale of bounties for the rest of the life of the Steel Protection Act. Thirdly, the Commerce Member did not think that in calculating the fair price of locally produced steel the Tariff Board had taken into account the reduction in the cost of internal production caused by the increase in exchange. The Board had taken into account only bountry steel while Government had to treat the industry as a whole and to bear in mind that that industry made not only bounty steel but also the other steel. If the Tariff Board adjustment was applied to both kinds of steel it meant that the amount of bounty might legitimately be reduced by 10 lakhs. Another consideration of the kind which had influenced the Government was that the Tariff Board's estimate of the surplus revenue from the protective duties was only an estimate and Government were inclined to think that the margin of 24 lakhs which they had stated was too small. Moreover, Government were dealing with the taxpayer's money and had to be careful not to be too generous to one firm at the expense of other legitimate claimants. Another factor, which under the terms of reference the Tariff Board could not have taken into account but which Government had to, was that bounties were rather a demoralizing form of assistance and their danger was that the firm to which they were given might rely too much upon Government and too little upon itself. Sir Charles regretted that the appeal he had previously made to the industry to co-operate with the Government and the Legislature had so far evoked no response. Owing to the way the capital of the Company was arranged, about two-thirds of the share capital took the form of second preference shares, the interest on which was cumulative, for the past three years the arrears of that interest amounting to about 50 lakhs a year had been accumulating. There was a load of debt amounting to a crore and a half on that score alone round the neck of the Company and Sir Charles wished the House to send a message to the Company to take the matter in hand and to co-operate with them in putting their industry upon a sound and healthy basis. In addition to this burden, if Sir Charles' proposals were accepted, they will have paid during the life of the Act to this one Company 203 lakhs. "I feel that the Government and this House," said Sir Charles, "have a right to claim from the industry co-operation with

us in this matter. I am perfectly satisfied that, though we are not putting the Company on velvet, yet we are giving them a very liberal measure of assistance and the figures in the Tariff Board's own report will bear that statement out." Concluding Sir Charles said that he could not say whether exchange would go up to any serious extent for any prolonged period but if it did it would be a new factor requiring consideration. Mr. Charters regretted that the Commerce Member had been compelled to bring up a Resolution to give a further extension of bounties to the Steel industry. But he admitted that there were reasons for it and the Chambers of Commerce fully agreed to any action that was found necessary to keep the Company going provided the support was given by bounties. Sir Purshotamdas Thakurdas considered it very unfortunate that the Company which had helped the Government during the war at great sacrifices to the interests of its shareholders should have been a Company consisting of private shareholders. In the proposals the Government of India had put forward Sir Purshotamdas thought that they were only making a deferred payment to the company for what they had taken from its shareholders more or less under a moral promise which had still to be carried out. Coming to the appeal for co-operation the Commerce Member had made, Sir Purshotamdas said: "There is a part of the capital rupees 7½ crores in preference shares; what do you want the Company to do with that capital? Why not say definitely to the Company, this is what you would like the Company to do, and give your reasons for it." Sir Purshotamdas was prepared to agree to any vote the House might pass in connection with what would be the fairest thing for the Company to do by the tax-payer of the country. But he objected to take without challenge the opinion of the Executive of the Government of India when they had had radical differences of opinion with them. "Let this House go into a committee on this question; let a strong, expert committee be appointed in order that the necessary terms may be laid down after hearing representatives of the Tata Iron and Steel Company." Syed Majid Baksh opposed the Resolution. Mr. K. C. Neogy remarked that it was the business and the duty of the Assembly to adjust the conflicting interests of the consumer to those of the trade which it sought to protect. Galvanized sheets were very largely in use among the poorer classes and the high duty which the Government had fixed on this item was working very harshly so far as the large portion of the consumers in Bengal was concerned. Mr. Neogy did not oppose the motion. Sir Basil Blackett did not see how Mr. Neogy could make the complaint he had made unless he had weakened in his support of the policy of the protection of steel. It was true that Government had had rather more revenue from these protective duties than had been originally estimated and that galvanized sheets were responsible for a portion of the increase; but the main portion of the increase was due to the very large imports which had taken place in the first few months of the early portion of the period during which the Act was in force. It was incorrect to infer from that that the policy had been unsuccessful. That the policy had proved very effective was evident from the figures showing a considerable reduction in the receipts other than galvanised sheets. One of the main reasons why receipts from galvanised steel had increased after the Tariff Board's first report was to be found in the general fall not only in the rupee but also in the sterling price both of British specification and Continental. As regards exchange it was not possible to make any reasonable arrangement in advance to deal with an emergency of that sort. But the Finance

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Member hoped that the question might not arise. Government had no desire to see exchange rise in existing circumstances beyond 1*s.* 6 $\frac{3}{16}$*d.* though naturally pending the report of the Currency Commission they could not commit themselves to any view as to what the final future of the exchange rate should be. The Government of India were desirous of making effective their policy of protecting the steel industry. But they had never been concerned with the Tata Iron and Steel Company as such. It was not for the Government, or for a Committee of the Assembly, to lay down the exact terms on which the part of their capital which could not be expected to earn a return should be dealt with. But the Finance Member thought it right that the Government and the Assembly should make it clear to the Company that their policy was to enable the Company to earn a reasonable return on the capital which was really engaged in turning out steel and it was not their policy to put a Company in a position out of bounties, voted at the expense of the tax-payer, to pay the arrears of dividends on second preference shares. Mr. B. Das moved the following amendment:—

"(*a*) That in clause (2), for the word and figures 'Rs. 12' the word and figures 'Rs. 18' be substituted.

(*b*) That in clause (3), for the figures and word '18¼ lakhs,' the figures and word '28 lakhs' be substituted."

He asked the Commerce Member not to talk of generosity but of mathematical accuracy. Sir Charles referred to the reasons (he had given in his opening speech) why Government had been unable to accept the opinion of the Tariff Board and added that he was perfectly satisfied that the proposals were in the true interests of the Iron and steel industry. Mr. Das's motion was negatived without a division. Mr. N. M. Joshi moved the following amendment:—

"That at the end of the Resolution the following be added:

'(4) That the amount of the bounty paid in accordance with the Resolution shall be reimbursed by the company receiving the bounty out of the balance which may remain out of profits after distributing a dividend of 8 per cent. to its shareholders in any following year or years.

(5) That the Government of India shall insist that the company receiving the bounty shall produce a certificate from any officer appointed by the Government of India for that purpose, that the labour conditions prevailing in the works of that company are satisfactory.

(6) That the Government of India shall have such representation on the board of directors of the companies receiving the bounty as the Government of India consider to be adequate'."

With regard to the first clause of the amendment, Sir Charles said that the Company could only repay the two crores in two instalments; and the result would be that protective duties amounting to 168 lakhs of rupees would have to be continued until the amount had been repaid. The second clause was much too vague and the House could not, in fairness to the Company or the officer contemplated, impose a condition of that kind. It was up to the Legislature to lay down the canons and to prescribe the standards on which the officer had to work. The proper way to deal with the question was to improve the Factories Act or the Workmen's Compensation Act. As regards the representation on the Board of Directors Sir Charles said that the analogy of Company railways to which Mr. Joshi had referred failed because company railways were given a monopoly, most of these railways were owned by Government, and because the Government Director there had over-riding powers

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which could not be given in the present instance. Mr. Joshi's motion was negatived.

On the 9th September this Resolution had already been brought up by Mr. Chadwick in the Council of State and carried. A brief summary of the discussion there will not be out of place. Sir William Currie preferred free competition but acquiesced in the grant of assistance which he did not consider unreasonable. Colonel Nawab Sir Umar Hayat Khan said that, although he was formerly very much against protection, he had changed his view because he felt that if anything happened in the East as it had happened in the West during the war, India would stand in danger of being blockaded and articles of commerce might not come in freely from outside. If at that time they did not have a big industry like Tata's they might not have some of their railways. Sir Maneckji Dadabhoy supported the Resolution because it gave effect to a principle laid down by the Fiscal Commission. Mr. Sethna said that the Tata Iron and Steel Company were most grateful to Government for the most timely help they had extended to them but he felt that the recommendation of the Tariff Board was by no means excessive and Government might well have agreed to it and thus enabled the Company to turn the corner earlier than it might now be expected to do. Sir Arthur Froom liked to see the industry put on its feet but he emphasised that if in a few years it did not show that it could stand by itself it would not be worth spending further money on it. Mr. Manmohandas Ramji and Mr. G. A. Natesan also supported the Resolution. Mr. Karandhikar desired the Government to see that, when they extended bounties to such concerns, the latter must exercise the utmost discretion in the matter and must not make the management top-heavy. Sir Deva Prasad Sarvadhikary would have preferred to go a little further but he contented himself with supporting the Resolution.

The Resolution having had the approval of both the Assembly and the Council of State, Sir Charles Innes moved on the 15th September:

"That a sum not exceeding 18½ lakhs be granted to the Governor General in Council to defray the charge which will come in course of payment during the year ending the 31st of March 1926 on account of the bounty which has been recommended in the Resolution just passed that the Governor General in Council should pay on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927."

The motion was adopted.

The Assembly also agreed to the payment of bounties upon wagons when the following Resolution was moved on the 17th September 1925 by Sir Charles Innes:

Bounties on Wagons.

"That this Assembly recommends to the Governor General in Council that legislation be undertaken to amend section 4 of the Steel Industry (Protection) Act, 1924, so as to empower the Governor General in Council to pay by way of bounties upon wagons a sum not exceeding 21 lakhs during the three financial years commencing on the 1st day of April 1924, 1925 and 1926, instead of a sum not exceeding 7 lakhs in each of these financial years."

Sir Charles explained that section 4 of the Steel Industry (Protection) Act limited them to the payment of bounties upon wagons to not more than 7 lakhs in any one year during the life of the Act. As soon as the Act was passed tenders for wagons were called for and orders were placed last August. Four months of the financial year had been lost and it took

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wagon firms a considerable time to collect materials. The result was that, though orders had been placed in August of last year for 2,300 wagons, they had only been able to pay Rs. 2,85,000 in the way of bounties up to the 31st March 1925. Consequently, out of the 7 lakhs allotted for bounties in the current year, upwards of 5 lakhs was due for wagons for which orders had been placed last year, and for the wagon orders this year they had got only over one lakh. The result was that next year's bountry would largely be spent in paying the bountry on wagons ordered this year. They would only have about 3 lakhs for fresh orders for next year. The Resolution was, therefore, brought in to ask the House to agree that Government should make the policy of the Legislature effective by being allowed to spend 21 lakhs in three years instead of not more than 7 lakhs in each year. Dr. Lohokare asked Government to pay attention to the necessity of Indian purchased steel being utilised by such companies as received orders for wagons in India in the years the bounties were allowed. The Commerce Member said that there were certain classes of steel which could not at present be obtained in India but he assured the House that the firms building these wagons did buy Indian steel wherever it could be suitably procured in the country. The Resolution was agreed to.

Assistance to Bamboo Paper and Paper Pulp Industry.

On the 10th September 1925 Sir Charles Innes moved "That this Assembly recommends to the Governor General in Council that assistance be given to the bamboo paper and paper pulp industry in India by the imposition until the 31st March 1932 of a specific protective duty at the rate of one anna per pound on all printing papers (other than chrome, marble, flint, poster and stereo) which contain less than 65 per cent. of mechanical wood pulp and on all writing paper." Sir Charles said that the paper industry might be divided roughly into two classes, that is the mills which made paper from Sabai grass and those which made it from bamboo. At present there was only one mill in India which made paper from bamboo grass, and that belonged to the Indian Paper Pulp Company which had a maximum output of 2,750 tons of paper a year. In considering the question of protection to this industry, the first point the Tariff Board were brought up against was that the scope for the expansion of paper manufactured in India was comparatively limited. For the last two years the imports of paper into India had averaged about 80,000 tons a year, and from these imports had to be deducted large quantities of old newspapers, paper on which newspapers were printed, and paper which was not made in India and had to be excluded. After making these deductions the scope of expansion for the paper industry in the country was not more than 20,000 tons a year. The Tariff Board had distinguished between the two classes of mills, the grass mills and the bamboo mills, and had considered separately their claims for protection. The tariff Board thought that subject to one reservation at Saharanpur where a mill was projected but had not yet been built, and where for special reasons the prospects might be favourable, the existing grass mills did not satisfy the conditions laid down by the Fiscal Commission. The existing paper mills using Sabai grass had no natural advantage because the paper manufactured by it had certain defects which militated against its usefulness as a printing paper and that grass was an expensive material. The Board saw no reason to hope that the mills using Sabai grass would ever be able to do without protection. The

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bamboo paper, for certain purposes, was not as good as paper made from Sabai grass but had the special advantage that it approximated much more closely to the paper made from ordinary chemical wood pulp. The paper made from bamboo was, therefore, likely to meet in greater measure the requirements of consumers in India and to have a bigger market. Bamboo paper also had a great advantage over paper made from grass in its supplies of raw materials, and there was reason to hope that, if they could develop it, they would not only be able to supply practically all their own demands for paper, but might build up a very important export trade in bamboo pulp. As the cost of chemical wood pulp went up, as imported paper became more expensive, there was reason to hope that bamboo paper would in time be able to dispense altogether with protection. The Tariff Board had also come to the conclusion that the "supplies of coniferous woods were steadily diminishing" and as a paper-making material wood must become more and more expensive. It was possible, therefore, that in time bamboo pulp might be used more and more as a substitute for wood pulp. The general lines of their conclusions were clear, but the difficulty of the Tariff Board was that the possibilities of bamboo paper had not been fully tried out in India. There was a mill at Naihatti, quite a recent mill, which had already brought its works cost down considerably below the works cost of the very much older grass mills and was trying the sulphite process by which paper would be made from bamboo pulp. But it could not try out the material properly, because though it was designed and had a power plant equipped for two paper machines, so far only one paper machine had been installed and it could not try another process known as the Soda process, very important modifications of which had been developed on a laboratory scale at Dehra Dun. The Tariff Board considered that both these processes ought to be properly tried out, and therefore they were not able to commit themselves to a final decision as to whether they should embark finally on a permanent policy of protecting the bamboo paper industry. In their Report the Tariff Board had proposed that on writing papers and certain classes of printing paper, the existing duties of 15 per cent. *ad valorem* should be raised to a specific duty of one anna for a period of five years. In addition they had suggested that a loan or a guarantee of debentures be given to the Indian Paper Pulp Company to enable them to instal a second paper machine at Naihati, which would cost 10 lakhs. Lastly they had suggested an inquiry into the prospects of the mill which was being constructed at Rajahmundry, and if the Government of India were satisfied, as a result of the inquiry, that the prospects of that mill were really good, they should give a loan or similar assistance to the Carnatic Paper Mill to enable it to try out the soda process. The Tariff protection was intended to keep the industry alive while these processes were being tried out, and the Commerce Member thought that though the protective duties were not light. Government were quite prepared to accept the finding of the Tariff Board that those duties were the minimum necessary for the purpose in view. There was, however, a difference of opinion between the Tariff Board and the Government, namely on the question of subsidies. The Indian Paper Pulp Company was not even a Joint Stock Company, it was only a private company; one of its owners was the owner of the patent process which was now being tried in the mill; and the Tariff Board's proposal amounted to recommending an advance of 10 lakhs of rupees to a monopolist owner in order to enable

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that monopolist to try out a process which was covered by patent rights. The Government also felt that if they gave financial assistance to industries, it should be the sort of assistance which was equal for all competitors in that industry, and they felt great difficulty in advancing money to one of the mills and thereby giving it an advantage over its competitors in the Indian market. Moreover, if Government gave financial assistance to the Indian Paper Pulp Company they would also be called upon to give it to other mills installing machinery for making bamboo paper, and they would find themselves in extraordinary difficulty. Much the same objections applied to the somewhat conditional proposal of the Tariff Baord that Government should give assistance to the Rajahmundry mill. The soda process which, it was proposed, should be tried out in the Rajahmundry mill was also a process which was covered by a patent right. The Government of India could not, in a matter of this kind, discriminate unfairly between particular firms competing in an industry. Their suggestion, therefore, was that they should guarantee the protection for practically a period of seven years; the additional two years ought to give both to the Naihati mill and the Rajahmundry mill about just as much money as if they had been given the subsidy. If after a reasonable period of time Government found that no effort had been made to try out these processes, they might again have to come before the House and consider whether or not they should repeal the Bill. Sir Charles claimed that he was following the recommendations of the Tariff Board and remarked that the grass mills would get the benefit of the enhanced duties as much as the mills which were making paper from bamboo. The Tariff Board had suggested that the burden on the consumer would amount to about 20 lakhs of rupees a year, and the Commerce Member said that it was for the Assembly to decide whether they thought it worth while to place that burden upon the consumer.

Sir Willoughby Carey hoped that the House would assist the paper industry and accept the recommendations of Government. India, no less than other countries, must have this essential industry firmly established. Mr. Devaki Prasad Sinha opposed the Resolution. He denied that if this protection was not given a large number of labourers would be thrown out, and maintained that the protection contemplated in the Resolution was not for any national industry but for the dividends and the profits of the middleman. If the industry was really national, the only remedy for removing the present disease was to nationalise it. If any industry needed protection, it was agriculture. Mr. Devaki Prasad Sinha hoped that some day they would realise that the Indian capitalists were as much a danger to the country as the British Government itself. Mr. Naraiandas supported the Resolution, but said that the Commerce Member had given only a step-motherly treatment. One recommendation, divorced from the other, would lead nowhere, and he did not see why one of the main recommendations had not been given effect to. Mr. Fleming maintained that it would not be possible to develop the bamboo pulp industry in Tavoy district on a large and commercial scale until some means were found to combat the scourge of Tavoy fevers in the jungles and transport conditions were improved. On the whole, to Mr. Fleming, the prospects of developing the pulp industry in Burma were a long way off.

Mr. N. C. Kelkar moved the following amendment:—

"That after the words 'the bamboo' the words 'and grass' be inserted."

He insisted that if the word " bamboo " was put in the Resolution the word ' grass ' must also be there. Grass perhaps had even a longer experience than bamboo and though the possible benefits of the import duty would be automatically absorbed by all kinds of paper mills in the country, he did not see why, when a subsidy was not being given to a particular industry, the word ' bamboo ' should not be retained. Diwan Bahadur M. Ramchandra Rao said that the protection would be a help not only to bamboo pulp but also to Sabai grass, and it seemed to him that the Resolution should be brought into conformity with the actual facts. Mr. Abdul Haye supported Mr. Kelkar's amendment. Sir Charles Innes said that the Resolution followed exactly the recommendations of the Tariff Board who had definitely found that Sabai grass had not made out its claim for protection. The Tariff Board had said that the claim for protection depended entirely upon the possibility of manufacturing paper from bamboo, and that was the reason why the Commerce Member proposed to entitle his Bill a Bill for the protection of the bamboo paper industry. If the House accepted Mr. Kelkar's amendment, it would be saying that it did not accept the definite finding of the Tariff Board regarding grass mills, and therefore Sir Charles Innes opposed the amendment. The amendment was negatived by 49 votes against 40.

Mr. K. Rama Aiyangar moved " That for the figure ' 1932 ' the figure ' 1930 ' be substituted and that at the end of the Resolution the following be added:—' and by advance of capital or by the guarantee of capital and interest to the extent of Rs. 20 lakhs to the industries referred to in the ' Annexure ' to the report on the paper industry subject to such conditions as the Government may feel fit to impose." He appealed to Government to see that the whole of the Tariff Board's recommendations were carried out in full and he saw no point in taxing the consumer alone without any benefit to the company. Sir Charles Innes was definitely of opinion " that if we give financial assistance in this way, whatever assistance we give to this industry, it ought to be assistance which does not discriminate between firm and firm competing in the same market; and that is why we put up to this House this alternative proposal." Mr. Rama Aiyangar's amendment was negatived.

Mr. A. Rangaswami Aiyangar moved:—

" And this Assembly further recommends that the recommendations of the Tariff Board for the grant of loans or subsidies to firms with a view to fully explore the possibilities of the manufacture of paper from bamboo by the sulphite, soda or other process be reconsidered and accepted in principle and that further investigations be made in accordance with the recommendations of the Tariff Board as to the most effective manner in which assistance may be given to all the companies or firms that are prepared to explore these possibilities on a commercial scale." Sir Basil Blackett assured Mr. Rangaswamy Aiyangar that he was entirely mistaken in believing that the Government had ever conveyed or had intended to convey any kind of general decision in regard to the grant of loans or subsidies. Government considered it undesirable to grant loans or subsidies to this particular firm which had a monopoly, which had already put something like half a crore of rupees as capital into the working of the monopoly, and might require perhaps another ten lakhs to continue that experiment. One of the objections to the grant of a loan or subsidy in the manner suggested was that it would involve the transfer of the

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paper industry from being a Transferred subject into a Central subject, and the Government of India had come to the conclusion that it was undesirable to follow up this particular recommendation of the Tariff Board. The Finance Member asked the mover of the amendment not to raise a very big question of principle which was not germane to the subject under discussion. If the general question was raised, Government would want very much more time than they could get that day to deal with it, and clearly they could not accept any amendment without a complete alteration being made in the whole situation. Mr. M. A. Jinnah asked that Government should place their proposals before the House in due time and give them opportunities for the purpose of discussing those proposals. Mr. M. K. Acharya thought that no reasonable person could oppose Mr. Rangaswamy Aiyangar's amendment. Sir Hari Singh Gour thought that the amendment would not serve the purpose for which it was being moved. The Tariff Board were not formulating any general recommendations for subsidising the paper industry in India, and their recommendations were confined to a single company. He felt that both Mr. Acharya and Mr. Rangaswamy Aiyangar had been misled by stray passages in the Report and pointed out that the Report was not their recommendation. The Assembly was considering a limited Bill, and a Resolution limited to giving effect to some of the recommendations of the Tariff Board; it was in that light that Sir Hari Singh Gour regarded both Sir Charles Innes's motion and the amendment which was under discussion. The larger question, namely that the Government of India should examine the possibilities of the development of the manufacture of paper in this country, Sir Hari Singh contended, was wide of the mark. Mr. Charters said that if this amendment was accepted by Government they would have 20 or 30 firms in Calcutta jumping at the opportunity, probably four or five in Madras, and an equal number in Bombay; and he thought that the amendment would do very much more harm than good to the existing paper mills. Sir Charles Innes did not agree with Mr. Jinnah that Government should, before coming to a decision, have consulted the House. "It is for the Executive Government to formulate its decision," said the Commerce Member. "It then brings its decisions to this House, and it is for this House to criticise that decision. It is exactly what happens at Home." Dealing with Mr. Jinnah's complaint that Government were not giving enough time, the Commerce Member said that the fault was not his. Had this Resolution been brought up in the Delhi session, the Bill might have been referred to a Select Committee and given longer consideration. But out of the Simla session only a few days were left, and that was why he was asking the House to come to a decision. Mr. Jinnah had suggested that some machinery might be devised by which, after Government had arrived at their decision, they could take some Members of the House into their confidence and explain the reasons. "That machinery exists," said Sir Charles, "already in the departmental Committee. . . . . I can promise the Honourable Member that the Government will consider the suggestion that he has made." He regarded Mr. Rangaswamy Aiyangar's amendment as a much more insidious attack on his Resolution than Mr. Rama Aiyangar's, and he inquired what exactly the Mover was driving at. If he objected to what he considered pronouncements against subsidies, the Finance Member had already answered the objection. "I say now that it is entirely open to the Government of Madras, if they so desire, to help the Carnatic Paper Mill at Rajahmundry, either by a loan or in any way they like." The

Commerce Member could not help feeling that what the Mover of the amendment and his friends had in their mind was that sooner or later they would get something out of the Government of India for the Rajahmundry mill. "Once we accept this principle," said Sir Charles Innes, "it will not stop with the Rajahmundry mill, it will not stop with the Indian Paper Pulp Company; we shall have to give these loans to mills in all parts of India, and that, as I have explained, is one of my main objections to this amendment." The amendment was put to the vote and rejected by 52 votes against 56.

Discussion was not concluded on the 10th and the adjourned debate was resumed on the 14th September 1925. Mr. Joshi moved:—

"That at the end of the Resolution the following be added:
Provided:—

(1) That the company receiving the assistance shall produce a certificate from any officer appointed by the Government of India for that purpose, that the labour conditions prevailing in the works of the company are satisfactory.

(2) That the Government of India are given such representation on the board of directors of every company receiving the assistance as the Government of India may consider adequate.

(3) That the company receiving the assistance shall undertake to pay an amount to the Government of India out of the balance which may remain of the profits after the distribution of 8 per cent. dividend to the shareholders of the company, equal to the amount which the company may have received through the rise in prices of paper due to the imposition of the protective duty."

Sir Charles Innes said that the amendment proposed by Mr. Joshi was quite unworkable. Nowhere was it stated what the officer was going to do. They would have to have a separate officer for practically every mill in India. Did it mean that he had to fix the wages or that he had to see to the housing accommodation of the labourers? There was a grave danger in having an officer of that kind, because he might be regarded as a Government spy. It was wrong in principle for the Government to interfere in this vague manner between the master and the men instead of leaving them to work together as they should. Another difficulty was that assuming that one mill was reported to have its labour conditions unsatisfactory and the other mills were reported to have their labour conditions satisfactory, what was the remedy? The only penalty would be to take away the protection; that is, because the labour conditions at one mill were unsatisfactory, all the mills should be deprived of the protection which the Legislature had thought necessary. As regards clause 2, Sir Charles inquired as to how they could provide for this measure of Government control on the Board of Directors when at least one of the important companies making paper in India had no Board. If Mr. Joshi meant to protect the tax-payer, the right way was that as soon as the company's profits rose to a figure mentioned by Mr. Joshi, protective duties should be reduced and protection taken away. Mr. Devaki Prasad Sinha felt that the amendment was not unworkable and urged the House to make full use of the occasion to insist upon employers giving proper facilities to the labourers working under them. The amendment was lost by 58 votes against 37.

Dr. K. G. Lohokare moved the following amendment:—

"That at the end of the Resolution the following be added:

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Provided that every paper pulp or paper manufacturing concern shall satisfy the following conditions:—

'(1) At least one-third of the capital of such concern is held by natives of India.

(2) The concern is registered in India and has a rupee capital.

(3) The concern takes a reasonable number of Indian apprentices to be trained in the art of paper and pulp manufacture.

(4) At least one-third of the quantity of paper pulp produced is utilised for paper manufacture in India'."

This amendment was also negatived. The Resolution, as proposed by Sir Charles Innes, was adopted.

As will be noticed under legislation, following upon the acceptance of this resolution by the Assembly Sir Charles Innes introduced a Bill to provide for the fostering and development of the Bamboo Paper Industry in British India. It went through all the stages on the 14th September and was passed by the Assembly. On the 16th September it was brought before the Council of State by Mr. Chadwick. Sir Maneckji Dadabhoy could not understand why words had been introduced in the preamble limiting the scope of the Bill to the paper made from bamboo. Sir Deva Prasad Sarvadhikari welcomed the bill but doubted if the protection afforded thereby would be adequate; and Mr. V. Ramdas Pantalu agreed with him. Mr. G. A. Natesan was convinced that the industry had great possibilities and ought to be protected. Sir Arthur Froom did not know where protection would land the country. Mr. Manmohandas Ramji and Nawab Sir Umar Hayat Khan supported the Bill. Sir Charles Innes justified the provisions of the Bill and said that the limitation in the preamble was due to the fact that the Tariff Board had made out a complete scheme. Rai Bahadur Lala Ram Saran Das also supported the Bill, and it was passed.

A resolution with a very important bearing on industries, though not directly connected with any particular industry, was moved by Rai Bahadur Lala Ram Saran Das on the 15th September 1925, in the Council of State.

"This Council recommends to the Governor General in Council that special concession rates be granted by the different railway systems for railway freight on coal when booked in full wagon loads and at owner's risk—

(*a*) for long distances of 500 miles and over; and

(*b*) during the slack season over various Railways."

Dr. Dwarkanath Mitter moved an amendment proposing that the freight should be reduced for long distances of 300 miles and over. The objective, he had in view, was to place coal at a cheaper price within the reach of the industries of the various provinces in India situated at great distances from coal-fields. Mr. Hadow in his reply said that although the fundamental idea expressed by the mover was at one with the Government's own ideas on the subject, he could not accept the resolution. It had always been the accepted policy of Government that the carriage of coal on railways should be charged at the lowest rates commercially possible, and Mr. Hadow assured the House that there was no intention whatever of departing from this principle. Moreover, the possibility of reducing long distance coal rates had recently been under consideration and the subject had last December been discussed at considerable length at a meeting of the Associated Chambers of Commerce. The earnings for the

Freight on coal.

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first five months of the financial year were down by 120 lakhs as compared with last year and the estimated gross receipts for the year had had to be revised and brought down by 2 crores. This was not the time when they could light-heartedly consider the reduction of coal rates. Mr. Phiroze Sethna and Major Nawab Muhammad Akbar Khan supported the resolution. Sir Maneckji Dadabhoy saw no difference between the policy of the Railway Board and that indicated in the resolution. The amendment was rejected and the main resolution was adopted.

The Central Legislature has always attached considerable importance to railways and matters connected with them. Resolutions dealing with the comforts of passengers, with the reduction of rates, and subjects of an allied nature have been brought up almost every Session. During the last Session, however, though the interest taken by the Legislature was amply continued in interpellations, there was only one resolution dealing with railways and that was moved by Mr. Sim on the 15th September 1925 in the following terms:—

"That this Assembly recommends to the Governor General in Council that with a view to improving the system of audit and accounting on railways, a reorganisation in the direction stated below be introduced forthwith as an experimental measure on the East Indian Railway:

(*a*) The Auditor General shall in future be responsible for audit alone. He should no longer be required to maintain the accounts of the railways or to control their accounts staff. Such control should pass, not to the Railway Board as such, but to the Financial Commissioner of Railways. On each railway system, for all ordinary purposes, the head of the accounting staff should be answerable to the Agent and should carry out his orders.

(*b*) The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State-worked railways by the accounts and audit staff under the Auditor General. Where the latter exercised an audit properly so called, the new agency will conduct an 'internal check'; but the nature and extent of the scrutiny will be approximately the same in both cases.

(*c*) The Auditor General shall, in order to enable him to fulfil his statutory responsibilities, be provided with a sufficient staff to make a satisfactory audit of the work of the accounts offices."

System of audit and accounting on Railways.

Mr. Sim said that his motion was intended to give effect to one of the few remaining recommendations of the Acworth Committee and the proposals contained in it were the necessary sequel and the inevitable corollary of the resolution which had previously been adopted for the separation of the railway from the general finances. Under the present arrangements on the one hand the spending authorities did not compile their own accounts and on the other hand there was little or no true audit in the sense in which the word was used in ordinary commercial phraseology. The resolution proposed that all the account work should be done by the railway authorities themselves and that they should have an independent audit made by the Auditor General and his staff of the accounts which were so compiled and maintained by the railway authorities. The railway authorities were required so to administer the railway property that the Central Revenues should obtain a definite return on the capital invested in that property, and Mr. Sim urged that if these authorities were to be made responsible to the House, to the Standing Finance Committee for Railways and to the Public Accounts Committee for the expenditure they incurred during

the year, it was absolutely essential that they should be made responsible for maintaining the accounts.

Mr. Kelkar moved an amendment that the consideration of the resolution be adjourned till the next Delhi Session of the Assembly. Among the reasons for his amendment Mr. Kelkar mentioned that Mr. Neogy had asked for certain papers which had not been supplied to him, with the result that it had created a feeding of suspicion, that many well-informed persons regarded the new scheme as risky and extravagant and that the real reason for the resolution as it appeared to him was that the Railway Department objected to pre-audit by an independent agency. Sir Purshotamdas Thakurdas supported the resolution. He said that it had been unanimously accepted by the 8 non-official members who had attended the meeting of the Railway Finance Committee, before which the resolution was brought up, that it had been sufficiently long before them and that it had been modified and brought up in a form to which they should agree. Mr. Neogy in supporting the amendment expressed his surprise at the Acworth Committee having made this recommendation on the *ex parte* statement of the railway authorities in regard to the unsuitability of the present arrangements and at having given no opportunity to the Auditor General to explain the charges which had been levelled against him. He saw no particular urgency for the resolution. Mr. Sim pointed out that the proposal had been before the House for the last five years. The note, for which Mr. Neogy had asked, was not on a Secretariat file and such notes were never put forward as public documents. The papers which Mr. Sim had placed before the Standing Finance Committee contained a complete statement of the views of the railway authorities, the Finance Department and the Auditor General and Mr. Sim saw no point on which any member of the Housie wished to have information which Mr. Sim and his colleagues were not prepared to answer. The amendment was rejected by 59 votes against 38.

Mr. Chartres supported the resolution.

Mr. Rangaswami Iyengar objected to the resolution principally on the ground that the principle upon which it was based violated the fundamental position the Assembly and the Government of India occupied in regard to railway revenue and railway expenditure. Under the statute the Auditor General had the fullest powers of prescribing any form of accounts and any form of internal audit and that power could not be circumscribed by any resolution the House might pass. He appealed to Government to see that they did not commit the House to the principle, although they might be permitted to carry out the experiment. Mr. Muhammad Yakub supported the resolution. Sir Basil Blackett said that he was very anxious that the House should not feel that it was being rushed or that the matter had not been sufficiently examined. He agreed with what had been said by Mr. Rangaswami Iyengar in regard to the principles of the proposed resolution but not with his conclusions. The great merit of the change, if it could be successfully introduced, was that it did give an absolutely independent audit, and did not take away anything from the existing powers of the Auditor General or the powers given to him under the statute. In addition they would get much better control over expenditure within the department if they

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had officers within it who were themselves responsible for the accounts. They were proposing to make the Financial Commissioner with the staff under him responsible for the accounts of the railways and the result would almost necessarily be that the accounts would be kept better and the audit would be better carried out. The form of accounts would remain under the charge of the Auditor General and the methods of audit would be entirely in his hands; and he would not in any way be influenced by the difficulties which he sometimes found of combining the work he liked to do as Auditor General with the work he had to do as Accountant General. "In his capacity as Accountant General", said the Finance Member, "he is not entirely indepndent; in his capacity as Auditor General he is absolutely independent, and the existence of those account functions has in my view to some extent detracted from the completeness of his independence. Under our new proposals that independence will be absolutely complete and he will be able to supplement the energetic action of this House in keeping my friend Mr. Sim in order." In March last the Finance Member had said that before Government finally committed themselves to the policy of separation of accounts from audit full opportunity would be given to the Assembly to examine the whole situation. That was the reason why the resolution was brought forward, although they were not finally committing themselves to the separation, but were only proceeding by experiment. Mr. Venkatapatiraju characterised the recommendation of the Acworth Committee as an *obiter dictum* and said that the railways wanted to avoid pre-audit under which alone all the proposals and details could be thoroughly examined. Mr. Jamnadas Mehta supported the resolution and said that the railways, as commercial bodies, were not concerned merely in preventing waste and extravagance, but had other functions which the present system of accounts could not bring into existence. If the railways were commercialised, the Agent must be in a position closely to watch the expenditure from day to day and to evolve, by employing commercial as against budget methods, a system of accounting which existed in commercial bodies but which it was impossible to have under the present rigid system. The existing pre-audit made the super-audit nominal and the proposed system would make the pre-audit and post-audit equally searching, because each would be done by separate organisations. If the House believed in the commercialisation of railways, Mr. Mehta thought that it must support the resolution. The change proposed in the system existed in Belgium which was a self-governing country; and if it was good enough for Belgium, it was certainly good enough for India.

With two amendments moved by Dr. K. G. Lohokare and Mr. M. K. Acharya, which were accepted, the resolution was carried in the following amended form by 67 votes against 14.

*"This Assembly recommends to the Governor General in Council that with a view to improving the system of audit and accounting on railways, a reorganisation in the direction stated below be introduced forthwith as an experimental measure on the East Indian Railway:

(*a*) The Auditor General shall in future be responsible for audit alone. He should no longer be required to maintain the accounts of the railways or to control their accounts staff. Such control should pass, not to the Railway Board as such, but to the Financial Commissioner of Railways. On each railway system the accounting staff will be under the orders of

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the Financial Commissioner of Railways for the purpose of appointments, promotions, transfers, etc., reporting, however, to the Financial Commissioner any differences that may arise from time to time between himself and the Agent. Such differences shall in due course be made available for inspection by the Standing Finance Committee for Railways.

(*b*) The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State-worked railways by the accounts and audit staff under the Auditor General. Where the latter exercised an audit properly so called, the new agency will conduct an 'internal check'; but the nature and extent of the scrutiny will be approximately the same in both cases.

(*c*) The Auditor General shall, in order to enable him to fulfil his statutory responsibilities, be provided with a sufficient staff to make a satisfactory audit of the work of the accounts offices."

To complete the review of the resolutions it only remains to mention the discussion on Mr. Haroon Jaffer's resolution, which had been adjourned from the Delhi Session, asking Government to keep a separate account of the interest payable by Government on deposit accounts in post office savings bank opened by Muhammadan depositors who, owing to their religious belief, had requested that no interest should be credited to them and to utilise this amount together with any interest on Government securities foregone by Muhammadan holders under similar circumstances in awarding scholarships to poor Muhammadan students in the Muslim University, Aligarh. Mr. McWatters reminded the House that last March Government had agreed to consult all Local Governments and to ask them, after consulting representative Muhammadan opinion all over the country, to give their opinion on the various issues which had been raised in the debate. Local Governments had been addressed and replies were beginning to come in, but they were not complete. The Secretary in the Finance Department assured the mover that if there was a weight of opinion in favour of the scheme he had proposed, the Government were quite prepared to give the matter their serious consideration. Mr. Haroon Jaffer felt that the matter might have been expedited in view of the short remaining life of the Council, but he accepted the assurance given on behalf of Government and asked for permission to withdraw his resolution. The resolution was, by leave of the Council, withdrawn.

Interest on Deposits by Mahomedans.

Supplementary Grants.

On the 15th September supplementary grants came up before the Legislative Assembly. The House agreed to a demand for Rs. 1,30,000 made by Mr. Sim to give effect to the resolution regarding the separation of railway accounts from audit and another for Rs. 38,00,000 to defray the charges in respect of Companies' and Indian States' share of profits on net earnings. The demands made by Sir Charles Innes for Rs. 90,47,000 for the capital outlay on Vizagapatam port and by Mr. Bhore for Rs. 2,44,000 in respect of agriculture were also agreed to.

Supplementary Grants.

Sir Basil Blackett asked for a grant of Rs. 50,96,000 in respect of Opium, to which the Assembly agreed; but his demand for Rs. 17,00,000 in respect of Stamps met with opposition. The money was required for the continuance and completion of the new stamp factory at Nasik.

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Sir Purshotamdas Thakurdas said that this demand had been rejected by the Assembly last March and he saw no reason why the House should change its opinion. The building, Sir Purshotamdas urged, was put up for a department which was going to be run on a commercial basis and the charge should be debited to capital and not to the revenue account. Mr. Rangaswami Iyengar supported Sir Purshotamdas. The Finance Member thought that the House did not want the building to stop and therefore he had given the House another opportunity of restoring the grant. His own view was that the building ought to be charged to revenue. But without going into it fully, he advised the House to agree to the motion to charge the amount to revenue, because it was started under revenue and because the only effect of changing it to capital would be a purely book-keeping one except that they would have to include next year a sum for amortization of this charge. Mr. Shanmukham Chetty inquired as to what would be the possible difficulty if the amount was charged to capital and not to revenue account. Sir Basil Blackett explained that it would mean re-opening last year's account, which was rather difficult. Mr. Shanmukham Chetty said that the fact that the 8 lakhs which had already been spent had been charged to revenue did not afford any serious objection to the item now being included in the capital portion and out of the 15 lakhs of rupees which was still to be spent on the purchase of paper. 8 lakhs might be transferred to capital account. Sir Basil Blackett said that if Government did make an adjustment they ought to do it in a straightforward manner and not arrive at it in a round-about way which would amount almost to misappropriation in form though not in intention. The demand was rejected by 42 votes against 38.

On the 17th September Sir Basil Blackett again brought up a new demand for the same amount before the Assembly to be charged to capital and not to revenue. He added that the Government had considered the views expressed by the House and understood that those views were intended not to challenge the principle that departmental buildings should normally be charged against revenue and borrowing should take place only for purposes which were strictly reproductive, but that in the present case the House had taken the view that the buildings should be regarded as being for reproductive purposes. "The Government attach very great importance" said the Finance Member, "to that principle and they desire it to be understood that, in accepting the view of the House in this particular matter, they are simply accepting the view that this case is one which can be regarded as the case of a building which is for reproductive purposes, and the general principle that buildings for departmental purposes should be charged to revenue is not infringed." Sir Purshotamdas Thakurdas and Mr. Jamnadas Mehta welcomed the Finance Member's compliance with the wishes of the House and the demand was agreed to.

Legislation.

Legislation.

The previous numbers of this publication have shown the increasing attention which the Legislature has had to bestow on legislation. During the last Simla Session again legislation played a very important part and, as Appendices I and II will show, 21 Bills were passed and 12 official and 11 non-official Bills

were pending at various stages on the termination of the Session. Some important Bills were rejected and therefore do not appear in the Appendix. More detailed reference to these will be made later. Non-officials had given notices of a considerable number of Bills but they were crowded out and could not be reached. The length of time legislative measures occupied was, indeed, considerable and their importance will appear from the account which follows. During the September Session 1924 a Bill to amend and consolidate the law relating to Government and other Provident Funds was passed by the Council of State, but, when it came to the Assembly, an amendment was carried omitting the provision designed to remove doubts as to the right of the Government or the Railway to withhold from a subscriber who had been dismissed from service that portion of his provident fund which consisted of contributions credited to his account by the employer. During the Delhi Session the Bill, as amended by the Assembly, went again to the Council of State and an amendment was made restoring the provision omitted by the Legislative Assembly, with the addition that the dismissal which might result in the aforesaid contributions being withheld, should be a dismissal for reasons specified in this behalf in the Rules. This amendment was considered by the Assembly on the 25th August 1925 when Mr. Tonkinson pointed out in what respects it was an improvement on the previous Bill. Mr. Tonkinson also showed that corresponding provisions were to be found in regard to pensions of the various services in India and existed in other countries such as England and Australia. Mr. Lohokare, Mr. Joshi and Mr. Acharya were opposed to the change while Mr. Cocke claimed that the right of the employer was a right recognised all over the world. Sir Charles Innes regarded the present Bill as more liberal than the one on the Statute Book, but in response to an appeal by Mr. Ramachandra Rao he said that he was willing to go through the rules and to consult the Railway Advisory Committee with regard to them. The amendment was agreed to by 56 votes against 52. On the 14th September a small Bill, more or less of a formal character, intended to make a few verbal changes and to remove certain formal defects in the Provident Fund Bill, as passed, was also carried.

Provident Funds Act, XIX of 1925.

Provident Funds (Amendment) Act, XXVII of 1925.

By an Act passed in 1923 the limit of exemption in regard to Civil Court attachments and sales in respect of salaries of public officers, railway servants and local authorities had been raised. It had since been pointed out that this provision affected adversely the working of Co-operative Societies in advancing loans, particularly to people on small pay. A special amendment of the law in regard to creditors of Co-operative Societies had been suggested to restore the former limit of attachment and sale, and by a Bill amending section 60 of the Civil Procedure Code this change was secured.

Code of Civil Procedure (Amendment) Act.

The Indian Limitation (Amendment) Bill was introduced to remove a doubt raised by the Bombay High Court as to the application of Article 5 to suits under Order 37 of the Civil Procedure Code; and also on the motion of the said High Court to extend the period of limitation provided in that article. The Civil Justice Committee also were in favour of both proposals, though they suggested

Indian Limitation (Amendment) Act, XXX of 1925.

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that the limitation period be extended to 3 years. The final decision was to extend the period to one year. The bill was passed.

A small enabling measure—an offshoot of the recommendations of the Civil Justice Committee entitled the Religious Endowments (Amendment) Bill was passed. This enables Local Governments to give the power of trial to courts other than the principal court of original civil jurisdiction within the district in which the mosque, temple or religious establishment is situated, relating to which or to the endowment whereof a suit has been instituted under the provisions of the Act. The measure should not only afford relief to the courts of higher jurisdiction by empowering select and competent courts of lower jurisdiction to exercise powers which are at present only exercised by the former, but it is a necessary corollary to the improvement in the capacity of the officers presiding over the courts of lower jurisdiction.

Religious Endowments (Amendment) Act, XXI of 1925.

To carry out one of the recommendations of the Reforms Inquiry Committee a Bill was passed to amend sections 320 and 135 of the Code of Civil Procedure in order to grant immunity to members of the various Legislatures from serving as jurors and assessors and against arrest and detention in prison for civil offences for certain periods stated in the Bill.

Legislative Members Exemption Act, XXIII of 1925.

Three validating Bills were passed, namely, the Sikh Gurdwaras (Supplementary) Bill validating and slightly amending certain provisions of the Act passed by the Punjab Legislative Council which were beyond its competence; the Oudh Courts (Supplementary) Bill validating certain provisions similarly beyond the competence of the United Provinces Legislative Council, in the local Act passed for the purpose of creating a Chief Court in the province of Oudh; and a small measure, known as the Madras, Bengal and Bombay Children (Supplementary) Bill supplementing certain provisions of the Madras Children Act, 1920, of Bengal Children Act, 1922, and of the Bombay Children Act, 1924. Under the provincial enactments it was provided that in certain cases orders made by a Presidency Magistrate or by a court of session were appealable to the High Court. In so far as these provisions affected the jurisdiction of the High Courts concerned, validation of the Indian Legislature was necessary and was secured by means of the last mentioned Bill.

Sikh Gurdwaras (Supplementary) Act, XXIV of 1925.

Oudh Courts (Supplementary) Act, XXXII of 1925.

Madras, Bengal and Bombay Children (Supplementary) Act, XXXV of 1925.

Under the existing Criminal Tribes Act, when Local Governments find it necessary to notify a tribe or individual members of a tribe as being criminal, they can, if the tribe or the individuals concerned are a very serious danger, restrict their movements or settle them in another place of residence. There are certain minor forms of restraint provided for and if action is taken under section 10 (*b*) all that is obligatory upon the member of the criminal tribe is to notify his residence and he can change his residence without obtaining permission. In order to give complete effect to the intention of this section, where, for example, a member of a criminal tribe moves from

Criminal Tribes (Amendment) Act, XXXIII of 1925.

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one province to another, it seemed necessary that he should, while in the other province, be required to notify his residence to the authorities in that province duly constituted and appointed for the purpose. With this object the Criminal Tribes (Amendment) Bill was passed.

It will be remembered that during the last Delhi session Sir Hari Singh Gour's Bill, as amended by the Select Committee, raising the age of consent for unmarried girls to 14 and for married girls to 13 was rejected by the Assembly in view of certain amendments which had been then made still further raising these ages and Sir Alexander Muddiman had expressed his intention of introducing a measure dealing with the subject embodying the changes which Government, in the present state of public opinion, considered desirable. This measure came up during the last session and was strongly opposed at various stages by the orthodox members while amendments were also moved to bring the measure more into conformity with advanced opinion. For example, Sir Hari Singh Gour wanted to raise the age to 15 in extra-marital relations but his as well as other amendments fell through. Similarly, conservative amendments, such as those moved by Messrs. M. K. Acharya and Rama Aiyangar were also rejected and the Government's proposals representing, as they did, a compromise between the two schools of thought were accepted. When, however, the Bill went up to the Council of State that House passed an amendment moved by Mr. Karandhikar providing that notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife would not be rape, although the wife had not attained the age of 13 years, if the man was married to her before the date on which the Act came into operation and she had on that date attained the age of 12 years. The Assembly was later on asked to agree to this amendment; Sir Hari Singh Gour objected to it but the majority of the House saw the force of the alteration and agreed to it.

Indian Penal Code (Amendment) Act, XXIX of 1925.

With the object of bringing under the direct control of the Central Government the administration of salt in the Madras and Bombay Presidencies hitherto administered through the agency of the Provincial Governments a Bill entitled the Salt Law (Amendment) Bill was passed. A Bill identical in principle with this one, the Opium (Amendment) Bill, dealing with the cultivation of poppy and the manufacture of opium and designed to take the administration of opium under the direct control of the Central Government was also passed.

Salt Law (Amendment) Act, XXII of 1925.

Opium (Amendment) Act, XXVII of 1925.

A number of measures emanating from the Department of Commerce were also placed on the Statute Book. The most important of these was the Bamboo Paper (Industry) Protection Bill, intended to provide for the fostering and development of the bamboo paper industry in British India. This was the natural outcome of the acceptance by the Assembly of the resolution dealing with that subject which has been referred to in the earlier pages. The Council of State endorsed the view taken by the Assembly and the bill was supported by Sir Maneckji Dadabhoy, Sir Deva Prasad Sarvadhikary, Mr. Ramadas Pantulu, Mr. Manmohandas Ramji, Colonel Nawab Sir

Bamboo Paper Industry (Protection) Act, XXV of 1925.

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Umar Hayat Khan and Lala Ram Saran Das. It was significant that though Sir Arthur Froom sounded a note of warning no one in the Council opposed the Bill which was carried without a division. Another measure of importance passed was the Coal Grading Board Bill, designed to give effect to the chief recommendations of the Indian Coal Committee and to meet some of the causes which have been militating against the recapture of foreign markets by the Indian coal industry.

Coal Grading Board Act, XXXI of 1925.

By the Cotton Transport (Amendment) Bill a provision was inserted in the Cotton Transport Act, 1923, which would allow Local Governments to prohibit by notification the import of cotton or a specified kind of cotton into an area by rail, road, river and sea or by any one or more of such routes; as the law previously stood, the prohibition must have been of import by all routes. By the Carriage of goods by Sea Bill, standard conditions of bills of lading were adopted in conformity with the decision arrived at by the International Conference on Maritime Law held in 1922.

Cotton Transport (Amendment) Act, XXXIV of 1925.

Indian Carriage of goods by Sea Act, XXVI of 1925.

It was felt necessary to take the power to exempt in certain ports the small native craft from the obligation of having a pilot on board before it moved. An amendment was therefore proposed under the Indian Ports (Amendment) Bill asking that power be conferred upon the Governor General in Council, where section 31 (*1*) of the Act applied, to exempt by notification from this provision sailing vessels of any measurement to be specified in such notification.

Indian Ports (Amendment) Act, XXXVI of 1925.

On the motion of the Law Member a formal measure, the Repealing and Amending Bill, was passed to amend certain enactments and to repeal certain others.

Repealing and Amending Act, XXXVII of 1925.

A Bill to consolidate the law applicable to intestate and testamentary succession in British India, prepared by the Statute Law Revision Committee, was passed. This consolidating Bill having repealed the Indian Succession Act of 1865, Sir Arthur Froom withdrew his Bill to amend section 27 of that Act.

Indian Succession Act.

Mr. Sethna's Bill intended to remove doubts as to whether assignments without consideration of certain actionable claims, *e.g.*, policies, etc., had to be registered or not, came up for consideration. Mr. Chadwick pointed out certain drafting defects and proposed an amendment, to which Mr. Sethna agreed, and the Bill was passed. The Assembly also passed the Bill.

Transfer of Property (Amendment) Act, XXXVII of 1925.

Of the 12 official and 11 non-official pending Bills, some might be briefly mentioned. In the case of the Court Fees (Amendment) Bill which was already before Select Committee the report of the Committee was presented. The report of the Select Committee on the Indian Trade Unions Bill was presented but objection was taken to the Bill being considered on the last day of the Assembly

Court Fees (Amendment) Bill.

Indian Trade Unions Bill.

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and consideration of the measure was adjourned. A Bill was introduced to define and limit the powers of certain courts in punishing contempt of court. The motion to refer it to Select Committee was strongly opposed. Pandit Motilal Nehru objected to the attempt to define 'contempt' but said that, if Government were prepared to limit the Bill to the main objects, he would support the reference to Select Committee. The Assembly by 82 votes against 8 agreed to the motion. The report of the Committee was presented. The Indian Naturalisation Bill was also referred to Select Committee. The Home Member had moved that the Bill be taken into consideration when Mr. Duraiswami Aiyangar moved an amendment referring it to Select Committee. His object, he said, was to make such provision as would ensure to Indians abroad the same privileges as they were prepared to give to foreigners in this country. Mr. Aney wanted to modify the definition of a 'British subject' so as to suit Indian interests. Mr. Ramachandra Rao referred to the unsatisfactory position as regards naturalisation, particularly in America, and remarked that, while certificates of American citizenship had been withdrawn from Indians settled in California, he saw no reason why Americans should be allowed in India to enjoy all the privileges of British citizenship. The Home Member explained that the Bill had already been before a Select Committee of the House which had reported on it in July 1923. The object of the Bill was to enable naturalisation of those persons who did not, as required by the Imperial Act, know English and therefore could not be naturalised under it. Sir Alexander emphasised that the position of Indians abroad was not relevant to this Bill and in the matters which had been brought in and into which the Select Committee was asked to go an attempt was being made to acquire a jurisdiction which the Assembly did not possess because it could not revise or otherwise interfere with an Act of Parliament. The amendment was, however, passed by 59 votes against 42.

Contempt of Courts Bill.

Indian Naturalisation Bill.

In order to give effect to certain recommendations of the Civil Justice Committee, an Insolvency (Amendment) Bill was introduced which proposed to extend to the town of Karachi the provisions of the Presidency Towns Insolvency Act, and amend section 104 of that Act on the lines of the amendments made some years ago in section 70 of the Provincial Insolvency Act and amend both the Insolvency Acts on the lines of the English Bankruptcy Act so as to omit the requirement of notice before prosecuting an Insolvent. The Bill was circulated for opinion.

Insolvency (Amendment) Bill.

A Bill to amend sections 102 and 103 of the Civil Procedure Code was introduced and referred to Select Committee. It seeks to give effect to the recommendations of the Civil Justice Committee, to raise from Rs. 500 to Rs. 1,000 the amount or value of the subject-matter of the original suit cognisable by a Court of Small Causes against which second appeal would not lie and to extend the power of High Courts to determine issues of fact in cases where the finding of the lower appellate court is vitiated by an error such as is described in section 100 (*1*) of the Code.

Code of Civil Procedure (Amendment of Sections 102 and 103) Bill.

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On the motion of the Home Member a Bill further to amend the Legal Practitioners Act, 1879, was circulated for the purposes of eliciting opinions thereon. This Bill also seeks to give effect to the recommendations of the Civil Justice Committee to deal with the evil of touting. Mr. Rangachariar took advantage of the motion to enquire as to what was happening to the recommendations of the Indian Bar Committee. The Home Member regretted that legislation regarding which Mr. Rangachariar had enquired had been delayed but pointed out that the report of the Indian Bar Committee had been circulated and one Local Government had, only last May, sent in its reply which needed close consideration.

Legal Practitioners (Amendment) Bill.

A Bill was brought in by the Home Member to provide for the punishment of corrupt practices by or relating to members of legislative bodies constituted under the Government of India Act. When the motion to take it into consideration came up there was a desire in the House to refer it to Select Committee to which the Home Member did not object and the Bill was accordingly referred to the Select Committee.

Legislative Bodies Corrupt Practices Bill.

The pressure of official business was so heavy that very little progress was made with non-official Bills. No new non-official Bills were introduced and within the limited time which the Assembly could devote to such Bills as were left pending at the end of the Delhi Session, much could not be accomplished. Diwan Bahadur T. Rangachariar's Indian Registration (Amendment) Bill, which he had introduced early in 1924 with the object of enabling Local Governments to authorize Sub-Registrars to hold an inquiry where the execution of certain documents was denied by the executants, came up for consideration and he moved that it be referred to Select Committee. It was opposed, among others, by Pandit Motilal Nehru who said that a large proportion of the deeds executed in Upper India were by *purdah nashin* ladies and, when Judges of high authority had found it difficult to decide whether a document had or had not been executed, a Sub-Registrar would not be the proper person to adjudicate upon such a matter. The Home Member pointed out that the Bill was permissive and Local Governments could be trusted to exercise the power with discretion. Mr. Ranagachariar's motion was agreed to by 47 votes against 41.

Indian Registration (Amendment) Bill.

Mr. Joshi moved to refer his Maternity Benefit Bill to Select Committee. Sir Sivaswamy Aiyer thought, that though the object of the Bill must command sympathy, as it stood, the Bill was full of numerous defects not only of drafting but of substance. Mr. Cosgrave opposed the motion as unnecessary and undesirable as far as the Tea Estates in Assam were concerned. Sir Bhupendra Nath Mitra also opposed the motion. The Government of India, he said, shared the sympathy in the fullest degree but they felt that such a measure was only one of the items in the various nation-building services in regard to which India was still far behind the principal countries of the world. The Government of India were bound to be guided by the conditions prevailing in India, and not by action taken in other countries. The opinions received from Local Governments showed that the majority of them were distinctly opposed to the fundamental principles of the Bill,

Maternity Benefit Bill.

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and Sir Bhupendra did not find any evidence that there was a considerable feeling on the part of the general public all over the country in support of the measure. One of the fundamental principles of Mr. Joshi's Bill was compulsion and it had been strongly objected to. The evils which Mr. Joshi sought to remedy did not at present exist in India in any appreciable degree to justify the measure. It would not be practical to enforce in all the provinces legislation on the lines recommended in the Bill. The effect of the legislation might be to compel employers to adopt measures which might have harmful results on female labour. The defects in the Bill were such that they could not be remedied by an examination by a Select Committee. Government therefore considered the Bill unnecessary and undesirable and the Member for Industries and Labour based his opposition to Mr. Joshi's motion especially on the ground that it would imply the acceptance by the Assembly of the fundamental principles of the Bill. The motion was also objected to by Mr. Chalmers, Mr. Chartres and Mr. Clow and after having been discussed on the 26th and 27th of August 1925 was rejected by 51 votes against 47.

Special Marriage (Amendment) Bill.

Sir Hari Singh Gour wanted to refer his Special Marriage (Amendment) Bill to Select Committee but it was opposed by Mr. Acharya, Pandit Madan Mohan Malaviya, Mr. Aney, Mr. Krishnaswamy Iyer, Sir Purshotamdas Thakurdas, Moulvi Muhammad Yaqub and Mr. K. C. Neogy and rejected. His motion to circulate for the purpose of eliciting opinions thereon his Hindu Trusts (Validating) Bill was also strongly opposed and rejected, Sir Chimanlal Setalvad characterising it as exceedingly mischievous and Mr. Tonkinson and Mr. Duraiswami Aiyanger declaring that it was absolutely opposed to public policy and against the interests of the Hindu community.

Hindu Trusts (Validating) Bill.

Three Bills which were rejected deserve special mention. On the 3rd September Mr. Ramadas Pantulu moved in the Council of State that the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Legislative Assembly, be taken into consideration. Mr. Crerar, in opposing the Bill, remarked that it did not take into account the realities and the facts of the present situation and had not received the calm and careful consideration it deserved. It had been urged that the laws which Mr. Patel's Bill sought to repeal were repugnant to accepted canons of jurisprudence. But it was only hard necessity and a very real sense of a very real danger which compelled Government to keep them on the Statute Book. Very serious and persistent attempts had been made to introduce into India propaganda and machinations against her peace and security. The Frontier was especially exposed to the dangers of foreign hostility and were it not for the vigilance of the officers concerned and the legislative weapons they had in reserve, this foreign hostility would pour in at every port in the form of subversive propaganda, incitements to murder and rebellion and in the concrete form of illicit arms and illicit ammunition. The present course of events in China had amply shown the extent of the Communist danger and attempts had been made and were being made by the Communist element in China to secure connection with India.

Special Laws Repeal Bill.

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"Are we to allow them to carry out in India," said Mr. Crerar, "activities which in Germany were found to be dangerous to the State, and will this House seriously propose to deprive Government of the means of dealing with persons of this type?" The object of the Bill was not to improve the Statute Book but to impair the power and weaken the responsibility of the Government which was at present charged with the duty of maintaining peace and order in the country —most elementary conditions of any form of civilized government and political progress. Dr. Dwarkanath Mitter moved an amendment to refer the Bill to Select Committee which was opposed by Sir Maneckji Dadabhoy on the grounds that it would commit the House to the principle of the Bill and serve no useful purpose. Sir Deva Prasad Sarvadhikary and Mr. G. A. Natesan supported the amendment while Mr. Khaparde was opposed to the formation of the Select Committee. Syed Raza Ali wanted to amend Dr. Dwarkanath Mitter's amendment by adding to it that the Committee should submit their report on or before the 10th September 1925. Mr. K. C. Roy said that he disliked the Bill and on that ground he thought that the matter should be further examined in Select Committee. Mr. Crerar also opposed the amendment which was supported by Mr. Karandhikar and Mr. Sethna. The amendments were negatived by 30 votes against 13 and leave to take the Bill into consideration was refused by 20 votes against 9.

The Code of Criminal Procedure (Amendment) Bill.

On the 9th September Diwan Bahadur T. Rangachariar moved that his Bill to provide that when fire-arms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances be given, as reported by the Select Committee, be taken into consideration. The principles his Bill introduced were that an unlawful assembly should not be dispersed by arms except in the last resort, that if fire-arms were used, the fullest warning should be given, that as soon as the assembly had been dispersed a report on the use of fire-arms should be made at once to the nearest Magistrate by the person who had authorised the use of the fire-arms and that liberty should be given to individuals and their relations to complain and to take action against those who had unlawfully exercised their power in dispersing an assembly. While sympathising with the objects of the Bill, the Home Member remarked that it was only under painful necessity that force was used; but, when force was used, it was necessary that it should be used in a prompt and expeditious manner. The result of the Bill would be that in each case where fire-arms were used it would have to be proved that the conditions laid down in the Bill had been complied with and it would not be possible in all cases to prove these conditions. The last provision of the Bill would take away a much needed protection and even in England sanction in such cases which purported to be given by the Director of Prosecutions was really the sanction of the Executive Government. His Excellency the Commander-in-Chief pointed out that when called upon to aid civil authorities, soldiers were always faced with very unpleasant duties. They were called out in the last resort and the action they took was under the belief that it would be condemned when it was over. On no two occasions would an officer be faced with exactly the same conditions and His Excellency urged that it was hard to lay down any laws for them. Sir William Birdwood quoted the Martial Law Instructions to

show that under the King's Regulations it was not necessary that a Magistrate's permission should be obtained before fire-arms were used. His Excellency compared the martial law instructions with the provisions of the Bill; said that it would result in transferring responsibility from one who knew to one who did not know, that provisions for giving a warning already existed, that it was doubtful if the mover of the Bill had thought out the legitimate conclusions of his provisions and that by rendering the soldier liable to prosecution without sanction it would not be right to tie the hands of the man on whom the final responsibility lay. The Bill was supported by Mr. Ranga Iyer, Mr. T. C. Goswami, Mr. Muhammad Yaqub and Mr. M. A. Jinnah, while Colonel Crawford and Mr. Vijayaraghavachariar opposed it. The Bill was taken into consideration and after certain amendments had been made, particularly at the instance of Sir Sivaswamy Aiyer, it was passed without a division. On the 15th September Mr. Ramadas Pantulu brought up this Bill before the Council of State. The motion that the Bill be taken into consideration was opposed by Mr. Crerar and His Excellency the Commander-in-Chief on behalf of the Government. Sir Maneckji Dadabhoy declined to be a party to any legislation which would curb the ordinary statutory powers for the maintenance and preservation of law and order. Colonel Sir Umar Hayat Khan said that the Bill showed the length to which some of the politically-minded people could go and proved that the Indian Legislature without the Council of State was like a ship without mooring. Mr. P. C. Dutt also opposed the motion and said that the House could not do a worse disservice to the country than by passing it. Mr. Ramadas Pantulu's motion was negatived without a division.

Code of Criminal Procedure (Amendment) Bill.

On the 14th September the Home Member moved that the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration. This proposed certain amendments of the Code of which one alone, the amendment of section 123 was objected to by the Assembly. Prior to the amendment of section 123, Criminal Procedure Code, a court had the discretion to award rigorous or simple imprisonment under section 109 of the Indian Penal Code. As a result of the change made in 1923, in default of security, simple imprisonment alone could be awarded. Local Governments had unanimously written to say that simple imprisonment was inadequate and the Government of India, agreeing with them, had brought in a measure to make the necessary amendments. Mr. Amar Nath Dutt wanted to refer the Bill to Select Committee but his motion was rejected without a division and the Bill was taken into consideration. Diwan Bahadur T. Rangachariar opposed the principal clause, clause 2, and said that the Assembly had in 1923 made the change deliberately because section 109 was preventive and it did not behove a civilized government to give the accused hard labour for mere failure to give security. Sir Hari Singh Gour supported Mr. Rangachariar. Mr. Tonkinson denied that section 109 dealt with preventive procedure and showed that under the English law analogous offences were dealt with as substantive offences. He remarked that the clause which was being opposed merely gave the Magistrate discretion to impose rigorous or simple imprisonment and it did not follow that rigorous imprisonment would in all cases be given. Further, the position as regards simple imprisonment was anomalous and Mr. Tonkinson went through

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the various divisions of imprisonment in England and showed that imprisonment without labour was practically non-existent there. He also referred to provincial administration reports on jails and said that jail authorities thought that nothing could be more absurd or demoralizing than sending men under section 109 to do simple imprisonment and thus provide them with board and lodging without their having to pay for it. It was bad for the jail, bad for the man concerned and a waste of public money. Sir Henry Stanyon supported the measure and Mr. V. Raju and Mr. Belvi opposed it. The Home Member assured the House that there was not the slightest political flavour about this clause and it had been introduced because every Local Government and jail authority had said that the change made in 1923 had rendered section 109 useless. The clause was rejected by 52 votes against 21. Though the other clauses of the Bill were passed, in view of the change the Assembly had made, the Home Member did not move that the Bill be passed.

Conclusion.

Conclusion.

The Session ended on the 17th September. The Assembly had indeed had a strenuous time. The length of the sittings, the resolutions which were discussed and the legislative business which was transacted all alike testified to the importance of the Session.

The end of the Session also marked the end of the life of the first Council of State, and it was in the fitness of things that His Excellency the Viceroy personally addressed the House and bade it farewell. His Excellency reminded those who had followed the fortunes of the Government of India Act, 1919, from the time of its introduction in the House of Commons that as originally planned the Council of State was intended to be a body in which the Government of India would be assured of a majority, for it was to consist of the Governor General and 56 members, of whom 28 might be officials. Had this conception prevailed, it would have enabled His Excellency to take part in the deliberations of the House. But the Joint Committee on the Bill had revised the proposal and "reconstituted the Council as a true Second Chamber." As His Royal Highness the Duke of Connaught, in his speech on the inauguration of the Indian Legislature, had emphasised, the intention of Parliament was "to create a true senate, a body of elder statesmen endowed with mature knowledge, experience of the world and the consequent sobriety of judgment. Its functions will be to exercise a revising but not an overriding influence for caution and moderation, and to review and to adjust the acts of the larger Chamber." As finally constituted the Council consisted of 60 members, of whom 33 were elected and of the nominated not more than 20 were to be officials. Of the nominated members, the representative of Berar was for all practical purposes an elected member and the number of officials had been reduced as low as 17. "I cite these facts for the purpose" said His Excellency "of showing that, as the discussions on the form of the new constitution developed, it was decided that the Government of India should surrender its majority and trust the Council of State, and further that after the constitution of the Council of State was finally settled by Parliament, the Governor General advanced again on the path of trust by refraining from nominating the full number of officials allowed by the Act and nominating non-officials in their place." It had been a source of great

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gratification to His Excellency and to his Government that this policy of trust had been amply justified and at the same time the nominated non-officials had not, His Excellency observed, sacrificed their opinions to their position. His Excellency said:

"The division lists of this Council furnish an abiding record that the nominated non-officials have not hesitated to vote against Government at the dictates of their reason or their conscience. On the other hand, they have not shrunk from shouldering the burden of temporary unpopularity, which too often is incurred by those who, undisturbed by waves of passion and prejudice, have applied a calm and sober judgment and have voted with Government when they were convinced that the higher interests of the country required it, when they were satisfied that these interests were being faithfully served by Government. The nominated non-official members have, in fact, exercised their functions with the same sense of independence and responsibility as the elected members of the Chamber, and I can therefore, in what I am about to say regarding the work of the Council of State as a whole, deal with all the non-official members of this Council as forming one body of men with firm principles and broad outlook, keenly alive to the responsibilities of their position as members of a Second Chamber in which they command an overwhelming majority."

His Excellency also referred to the representative character of the Council consisting, as it did, of Zemindars, leaders of learned professions and men who had attained success in the region of commerce and industry and expressed his gratitude to them for the valuable time they had liberally given and the personal sacrifices they had made in order to attend the Council. Lord Reading paid his "tribute of admiration and gratitude to the official members of this Chamber, who have throughout striven ardently and persistently to ensure success for the Reforms and have given their valuable assistance in the deliberations of this Chamber." His Excellency expressed his great regret that, in the comparatively short space of less than 5 years, circumstances should have compelled him to appoint no less than 3 Presidents. But his only justification for this course lay in the interests of the public service of India. On each occasion His Excellency had sought to give again of the best that was available for his selection. "To Sir Alexander Muddiman, your first President," said His Excellency, "we owe much, for he occupied the Chair for a sufficiently long time to carry the Council well on its way, and to establish for it a worthy tradition of dignity and courtesy and no less a record of high efficiency. He will be remembered as the first President of this new Chamber who set an example which others will assuredly be glad to follow." Hardly had His Excellency had time to congratulate himself on the success of Sir Alexander Muddiman's successor, Sir Montague Butler, when he became Governor of the Central Provinces, and His Excellency had to surrender "another of the trusted Secretaries of Government—Sir Henry Moncrieff Smith, who now presides over your deliberations with the serenity and distinction fully expected by all who had become familiar with his capacities and with his efforts since the inception of the Reforms." Referring to the Leader of the House, Sir Narasimha Sarma, who would soon be retiring, His Excellency said:

"We shall miss him very much, not only at our meetings but generally in the work carried on by the Executive Government. No Viceroy ever

had a more loyal, honest and independent-minded colleague who, whilst never forgetting his obligations as a Member of the Council, always remained true to his duty to his Indian compatriots, and faithfully presented their views in a manner that not only commanded great respect, but also deserved and received the closest attention. He is a genuine Indian patriot and a true servant of the Empire, with a broad outlook on human affairs aided by a zeal for research in the dusty pages of blue books and the keen and fearless judgment of a man whose paramount desire is to advance the interests of India and the Empire."

In the measures which had come before the Council His Excellency said it had " shown alike qualities of fearlessness and sobriety." Whilst you have been loth to interfere with measures which did not involve any vital principle, you have not hesitated to reject measures which in your calm and considered judgment and according to your conscience threatened the foundations of good government and would not truly serve the best interests of India. . . you have performed these difficult functions (of a Second Chamber) with a due sense of responsibility and have brought your judgment to bear upon the problems that confronted you with the sole desire to serve your country to the best of your ability." Looking back upon the history of the Indian Legislature during the past 4½ years, His Excellency noticed that there had been a large measure of agreement between the component bodies, a result which was as creditable to the one Chamber as to the other. There had no doubt been differences, often concerning practical measures which were being discussed on their merits, and these had usually been found capable of adjustment. It was mainly on questions of Finance and of the Constitution that the Chambers had found themselves in disagreement. Referring to the resolution on the Reforms Inquiry Committee report which had been accepted by the Council of State, His Excellency said that it would be duly considered by his Government together with the amendment which had been carried by the Legislative Assembly. " The conclusions of the Indian Legislature," said His Excellency, " must be considered as a whole, attributing due weight to that part which proceeds from the Council of State, and I believe, represents no inconsiderable proportion of the intelligent and stable elements in the country." Concluding his speech His Excellency bade farewell to the Council in the following words:

" In times of special difficulty, as times of transition must necessarily be, you have rendered a high service to your country by fulfilling to the best of your judgment the responsible role assigned to you by the Constitution. You have dealt with the important affairs which have come before you according to your conscience and in a spirit of good sense and moderation. As I understand your views, you stand for progress and the political advancement of India as rapidly as can be achieved with due regard to the dictates of prudence and wisdom and the special conditions appertaining to India. It is upon these broad-based foundations that you desire to construct the road to advance and to erect the superstructure destined to crown the efforts for the greater contentment and happiness of the Indian people. In the knowledge that you have throughout acted in full accordance with these ideals and have been animated by a lofty sense of duty and a steadfast determination to advance the interests of India, I regretfully bid you farewell and cordially wish you all happiness."

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APPENDIX I.

Acts passed by both Chambers of the Indian Legislature during Simla (August—September) session, 1925.

1. The Provident Funds Act, 1925 (XIX of 1925).
2. The Code of Civil Procedure (Amendment) Act, 1925 (XX of 1925).
3. The Religious Endowments (Amendment) Act, 1925 (XXI of 1925).
4. The Salt Law (Amendment) Act, 1925 (XXII of 1925).
5. The Legislative Members Exemption Act, 1925 (XXIII of 1925).
6. The Sikh Gurdwaras (Supplementary) Act, 1925 (XXIV of 1925).
7. The Bamboo Paper Industry (Protection) Act, 1925 (XXV of 1925).
8. The Indian Carriage of Goods by Sea Act, 1925 (XXVI of 1925).
9. The Opium (Amendment) Act, 1925 (XXVII of 1925).
10. The Provident Funds (Amendment) Act, 1925 XXVIII of 1925).
11. The Indian Penal Code (Amendment) Act, 1925 (XXIX of 1925).
12. The Indian Limitation (Amendment) Act, 1925 (XXX of 1925).
13. The Coal Grading Board Act, 1925 (XXXI of 1925).
14. The Oudh Courts (Supplementary) Act, 1925 (XXXII of 1925).
15. The Criminal Tribes (Amendment) Act, 1925 (XXXIII of 1925).
16. The Cotton Transport (Amendment) Act, 1925 (XXXIV of 1925).
17. The Madras, Bengal, Bombay Children (supplementary) Act, 1925 (XXXV of 1925).
18. The Indian Ports (Amendment) Act, 1925 (XXXVI of 1925).
19. The Repealing and Amending Act, 1925 (XXXVII of 1925).
20. The Transfer of Property (Amendment) Act, 1925 (XXXVIII of 1925).
21. The Indian Succession Act, 1925 (XXXIX of 1925).

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APPENDIX II.

Statement of official and non-official Bills pending before the Legislative Assembly.

No.	Bill.	Originating Chamber.	Remarks.
	(a) Official.		
1	Court-fees (Amendment) Bill.	Legislative Assembly	Introduced and referred to Select Committee. Report of the Committee presented.
2	Indian Trade Unions Bill	Ditto . .	Introduced and referred to Select Committee. Report of the Committee presented and the motion that the Bill be taken into consideration adjourned.
3	Contempt of Courts Bill	Ditto . .	Circulated for opinion and referred to Select Committee. Report of the Committee presented.
4	Indian Naturalization Bill.	Ditto .	Introduced and referred to Select Committee.
5	Indian Insurance Companies Bill.	Ditto . .	Published in the Gazette of India under Rule 18 of the Indian Legislative Rules and introduced.
6	Insolvency (Amendment) Bill.	Ditto . .	Introduced and circulated for opinion.
7	Legislative Bodies Corrupt Practices Bill.	Ditto . .	Introduced and referred to Select Committee.
8	Code of Civil Procedure (Amendment of Sections 102 and 103) Bill.	Ditto . .	Ditto.
9	Code of Criminal Procedure (Amendment) Bill.	Ditto . .	Introduced and taken into consideration.
10	Legal Practitioners (Amendment) Bill.	Ditto . .	Introduced and circulated for opinion.
11	Indian Factories (Amendment) Bill.	Ditto . .	Ditto.
12	Government Trading Taxation Bill.	Ditto . .	Introduced only.
	(b) Non-official.		
1	Hindu Religious and Charitable Trusts Bill. (Sir Hari Singh Gour.)	Legislative Assembly	Introduced and referred to Select Committee.

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Statement of official and non-official Bills pending before the Legislative Assembly—contd.

No.	Bill.	Originating Chamber.	Remarks.
	(b) *Non-official*—contd.		
2	Indian Registration (Amendment) Bill. (Diwan Bahadur T. Rangachariar.)	Legislative Assembly	Introduced and referred to Select Committee.
3	Hindu Coparcener's Liability Bill. (Sir Hari Singh Gour.)	Ditto . .	Ditto.
4	Weekly Payments Bill. (Diwan Chaman Lal.)	Ditto . .	Introduced and circulated for opinion.
5	Hindu Trusts (Validating) Bill. (Sir Hari Singh Gour.)	Ditto . .	Introduced. Motion for circulation rejected.
6	Indian Medical Degrees (Amendment) Bill. (Mr. Kumar Sankar Ray.)	Ditto . .	Introduced.
7	Indian Coinage (Amendment) Bill. (Sir Purshotamdas Thakurdas.)	Ditto . .	Ditto.
8	Indian Paper Currency (Amendment) Bill. (Sir Purshotamdas Thakurdas.)	Ditto . .	Ditto.
9	Transfer of Property (Amendment) Bill. (Sir Hari Singh Gour.)	Ditto . .	Ditto.
10	Law of Property (Amendment) Bill. (Sir Hari Singh Gour.)	Ditto . .	Ditto.
11	Indian Arbitration Bill. (Mr. Harchandrai Vishindas.)	Ditto . .	Ditto.

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